



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CRIMINAL DIVISION
Office of Special Prosecutions

310 K Street, Suite 701
Anchorage, AK 99501
Main: 907.269.6250
Fax: 907.269.7939

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Chief Sean Case
Anchorage Police Department
716 West 4th Avenue
Anchorage, AK 99501

RE: Use of Deadly Force Review—APD Case No. 24-30323

Chief Case,

Introduction

This letter summarizes the Office of Special Prosecutions’¹ review of the incident involving Anchorage Police Department² Sergeant (“Sgt.”) James Dokken’s use of deadly force against James Afuvai on September 29, 2024 in Anchorage. The purpose of this evaluation is to determine whether criminal charges are warranted against Sgt. James Dokken for his use of deadly force against James Afuvai.

Given the facts and circumstances surrounding this incident, when evaluated under relevant Alaska law, this office will not be filing criminal charges against Sgt. Dokken in this matter. Sgt. Dokken’s use of deadly force against Afuvai was legally justified under Alaska statutes as self-defense. As Sgt. Dokken’s conduct was legally justified in this matter, criminal charges are not appropriate in this case.³

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

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

³The purpose of OSP’s review is solely to determine whether criminal charges against the officer is warranted given use his 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.

The reasons for this decision and the underlying rationale are set forth below. This analysis is based on my review of the investigative reports related to this incident, along with the accompanying interviews, audio and video recordings, diagrams, photographs, lab reports, the autopsy report from the State Medical Examiner's Office, and other evidence submitted to date.⁴

Factual Summary⁵

On September 29, 2024, at 6:36 p.m., APD dispatch received a 911 call from an adult male stating that there was an emergency. The dispatcher asked follow up questions about the nature of the emergency, to which the caller responded, "I think I'm in trouble." The dispatcher asked why, and the caller responded, "Someone is hurt." The caller provided the location of the emergency as 501 N. Park Street, #2.⁶ When asked for further detail, the caller hung-up.

At 6:43 p.m., the same complainant called 911 and gave the same address. He stated that he needed the police to come. When asked why, he stated, "I just need to talk to them." When asked again for additional details, the caller said that last night someone shot out his window. The caller would not answer any follow-up questions. When asked for his name, the caller gave the name of Billy Tom, and provided a phone number and a date of birth. A records check did not find anyone by that name. The phone number was traced to a James Afuvai who resided at 501 N. Park St.

At 7:12 p.m., Afuvai again called 911, gave the same address and asked when the officer would arrive. Afuvai asked, "Can you send them like ASAP?" He was told the officers were on their way and he then ended the call.

The dispatchers and the responding officers considered the 911 calls to be suspicious. Specifically, because the caller did not identify himself, answer any questions, or provide any

⁴ 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.

⁵ The factual summary has been created from a review of all the evidence submitted in this investigation and consists of the relevant facts needed to analyze this matter. It is not meant to be a complete recitation of everything that was done or said by any of the witnesses or investigators in this case, nor does it reflect everything I have reviewed.

⁶ In one call, the complainant says it is apartment B and one time he says apartment 2.

details regarding the reported emergency. There were also long pauses between when the dispatcher would ask a question and the caller would respond.

Officers Smith and Redding were on patrol and riding together in one car. They heard the dispatch and attached themselves to this call. They drove from the downtown area towards the location of the call, which was at Thompson and Hoyt. At 7:15 p.m., Officer Redding directly called Afuvai to find out more information. Afuvai reported there was a male outside of his window with a knife who was threatening him. Officer Redding asked if Afuvai could go inside the house or get away from the person, and Afuvai answered no. Afuvai then said that it was an emergency and asked for the officers to come.

Based on the suspicious nature of the call, Officers Smith and Redding waited for back-up units before responding to the address at 501 Park St. Sgt. Dokken told the officers he would meet them at the Mizelle Substation near Bragaw and Mountain View. While waiting for Sgt. Dokken, Officers Smith and Redding pulled up information about Afuvai, including a photo. They discovered that he was on felony probation and was a “red flag” offender, which means the person has a history of being violent or assaultive.⁷ The address for Afuvai on file for Adult Probation was the same address from where the 911 call originated.

When Sgt. Dokken arrived, the three officers discussed how to respond to the call. Sgt. Dokken decided that although the call was vague, it was possible that someone was hurt. Officers Smith and Redding were in uniform but were in a “soft marked” black Taurus car.⁸ Sgt. Dokken was in uniform and driving a standard marked APD patrol car. Sgt. Dokken decided that Officers Smith and Redding should respond to the area of the residence to drive by and look at the outside of the residence. As Sgt. Dokken later told investigators, he decided to drive north on Bragaw, head east on Peterkin to Park Street, where he would then head north. According to Sgt. Dokken, this route would pass Park Street about one block behind 501 North Park, which would allow him to be in close proximity to Officers Smith and Redding.

⁷ This notation is put into a probationer’s file by adult probation.

⁸ The vehicle had no APD decals and no light bar on the outside.

According to later interviews, as Officers Smith and Redding approached 501 Park, Officer Redding, through binoculars, could see a shirtless male standing at the intersection near the address. The male appeared to match the photograph of Afuvai. Neither Officer Smith nor Officer Redding saw a knife or other weapon at that time.

According to an interview with detectives, as Sgt. Dokken was nearing the 501 North Park area he observed a “tan-skinned” adult male that he initially described as Native.⁹ The male was shirtless and was wearing black pants. The male was standing on the corner outside of the 501 North Park residence. Sgt. Dokken decided not to cross Thompson Street and instead, parked his marked patrol car next to the curb on Hoyt Street. As he was parked, Sgt. Dokken saw the same adult male walking eastbound on the south side of Thompson Avenue. According to Sgt. Dokken, the male was walking at a nonchalant pace with no expression on his face. As the individual moved from behind the trees, Sgt. Dokken saw that it was the same tan-skinned, shirtless adult male; as the male moved closer to Sgt. Dokken, he realized the male was of Polynesian descent. At this time, Sgt. Dokken could not see the man’s hands or lower body. However, Sgt. Dokken was able to determine that he was the same individual he had seen standing outside the 501 North Park residence and believed he could be the caller. Sgt. Dokken told detectives he exited his car because he intended to contact the male.

After Sgt. Dokken exited his car, the male came around the corner. As Sgt. Dokken told detectives, it was at that time that he saw that the male had a knife in his right hand, canted outward. Sgt. Dokken described the knife as having a polished silver blade with a black handle, and appeared to be a filet knife. Sgt. Dokken told detectives he decided to draw his service pistol, a Glock 22, 40 caliber,¹⁰ versus a less lethal option, as he was by himself and he did not know how far away Officers Smith and Redding were from the area. He said he radioed that the individual had a knife.

⁹ This individual was later identified as James Afuvai and will be identified as such throughout Sgt. Dokken’s interview. However, at the time of the incident and during the interview, Sgt. Dokken did not know the individual’s identity.

¹⁰ Sgt. Dokken stated that this weapon was fully loaded with a round in the chamber and fifteen rounds in the magazine.

Sgt. Dokken's body worn camera shows that as soon as he drew his pistol, Sgt. Dokken began backing up while simultaneously commanding the male to drop the knife. Afuvai did not drop the knife and continued to walk towards Sgt. Dokken at the same pace he had been initially walking. As he walked towards Sgt. Dokken, Afuvai raised the knife up. Sgt. Dokken is heard on the video giving three commands to drop the knife, as he continued to back away from Afuvai. Afuvai continued to walk in the middle of the street, directly towards Sgt. Dokken. Afuvai then leaned forward and increased his speed as he continued to move towards Sgt. Dokken. Sgt. Dokken commanded him again to drop the knife, as he continued to move backwards, creating distance between himself and Afuvai. Afuvai increased his speed and began running at Sgt. Dokken, with the knife still in his hand, closing the distance between himself and Sgt. Dokken. Sgt. Dokken then fired three total shots at Afuvai, striking him in the torso and leg. After the third shot, Afuvai collapsed in front of Sgt. Dokken. Afuvai still had the knife in his hand. Based on a review of the camera footage, Afuvai appeared to be within 20 feet of Sgt. Dokken when he fell.

Officers Smith and Redding arrived on scene seconds after the shooting, while Afuvai was on the ground. When they arrived, Officer Redding exited the passenger side with his service weapon drawn, and Officer Smith exited the driver's side with his taser drawn. The officers began ordering Afuvai to let go of the knife. As seen on body-worn camera video, Officer Smith then reached underneath Afuvai, grabbed the knife from his grasp and threw it to the side. The officers then started life saving measures and medics responded. James Afuvai was transported to Providence Hospital, where he died from his injuries.

Investigation

APD Homicide Unit detectives were assigned to investigate James Afuvai's death. A crime scene team was sent to the location to conduct a physical investigation. Officers were also sent to 501 N. Park Street to confirm that no one inside the residence was injured. Detectives collected video footage from body-worn cameras, in-car cameras, video footage from cameras on nearby residences, conducted interviews of civilian and police witnesses, and collected physical

evidence from the scene. James Afuvai's body was sent to the Alaska State Medical Examiner's Office for an autopsy. Below is a summary of the relevant parts of the investigation.

Body Worn Camera: Sgt. Dokken¹¹

Sgt. Dokken was the only officer on scene at the time of the shooting. His body worn camera shows the following:

19:32 Sgt Dokken parks on Hoyt Street facing Thompson. In the northwest corner an adult male, without a shirt on, is coming around the corner and starts walking on Hoyt Street towards Sgt. Dokken's patrol car.

19:33 Sgt. Dokken exits his vehicle and closes the driver's side door.

19:33:13 Sgt. Dokken draws his weapon and radios that the individual has a knife. Sgt. Dokken simultaneously begins to move backwards.

19:33:16 Sgt. Dokken yells to Afuvai "Drop the knife!" Sgt. Dokken continues to move backwards, away from Afuvai. Afuvai continues to walk towards Sgt. Dokken on Hoyt Street.

19:33:19 Sgt. Dokken yells to Afuvai, "Drop the knife right now!" Sgt. Dokken continues to move backwards as Afuvai continues to advance towards him.

19:33:21 Sgt. Dokken yells to Afuvai, "Drop the knife right now!" Sgt. Dokken continues to move backwards as Afuvai continues to advance towards him.

19:33:21 Afuvai raises the knife to his chest level with the tip of the knife pointing upwards as if to show it to Sgt. Dokken. Afuvai continues to walk in the middle of the roadway at Sgt. Dokken. **See Figure 1.**

19:33:23 Sirens are heard coming from the area behind Afuvai and a black truck turns onto Hoyt, from the northeast intersection of Thompson and Hoyt. The truck drives slowly towards Sgt. Dokken, parallel with Afuvai.

19:33:24 Afuvai looks behind him while still advancing towards Sgt. Dokken. Sgt. Dokken continues to move backwards, away from Afuvai.

19:33:25 Afuvai turns towards Sgt. Dokken and begins running quickly at Sgt. Dokken. Sgt. Dokken continues to move backward.

19:33:26 Sgt. Dokken yells at Afuvai, "Drop the knife right now! Right now!" Afuvai continues to run at Sgt. Dokken who is still retreating.

¹¹ As noted above, Officers Smith and Redding arrived immediately after the shooting incident.

19:33:28 Sgt. Dokken shoots three times at Afuvai. Afuvai stumbles forward and lands less than 20 feet in front of Sgt. Dokken. Afuvai still has the knife in his hand. **Figure 2.**

19:33:32 Officers Smith and Redding arrive on scene and stop in front of the truck, right next to Afuvai.

19:33:34 Officer Redding exits the vehicle from the passenger seat with his pistol drawn.

19:33:37 Officer Smith exits the vehicle from the driver's side with his taser drawn.

19:33:38 Officers begin yelling to Afuvai to drop the knife.

19:33:47 Officer Smith reaches underneath Afuvai, grabs the knife and throws it to the side. The officers begin life saving measures.



Figure 1. 19:33:21. Inside the red circle is an item that appears to be a knife. Sgt. Dokken's patrol car provides reference for how far he moved backwards after first responding.



Figure 2. 19:33:27. Sgt. Dokken’s patrol car continues to provide reference for how far he moved backwards after first responding.

Private Resident Cameras

Two private residences had exterior cameras that recorded the incident. One camera faced southeast onto Thompson and very little of Hoyt St can be seen. However, the video recorded sound, in which one can hear a person yell “drop the knife” and then hear three shots. A second Ring video captured part of the incident. This video is facing east on Thompson. The video shows Sgt. Dokken’s marked patrol car through the trees, Sgt. Dokken is seen backing up and the audio captures as he gives commands to drop the knife. Afuvai is seen advancing towards Sgt. Dokken while Sgt. Dokken is backing up, and then shots are heard.

501 N. Park

At 7:33 p.m., Officer Dorris responded to 501 N. Park Street, where the 911 calls originated. 501 N. Park Street is an assisted living facility. Officer Dorris did not find any injured individuals or witnesses, nor did he find any “shot out” windows, as had been reported on one of the 911 calls. Officer Dorris spoke to a staff member, D.M.,¹² who stated that the only resident

¹² Initials are used for civilian witnesses throughout this letter to protect their privacy, as identifying their full names in this publicly available document is unnecessary. *See generally* Alaska Constitution, Article I, sec. 22.

not currently at the home was James Afuvai. Officer Dorris was shown Mr. Afuvai's room, which did not have any bullet holes or damage. There was a knife on the bed.

Witness Interviews

APD detectives conducted interviews of civilian witnesses who were in the area when the shooting occurred, and the officers who arrived immediately thereafter.

Interview of Civilian Witnesses

a. T.M.

On September 29, 2024, T.M. was walking his dog on Hoyt Street, which he told detectives was a normal route for him. Right before he turned northbound onto Hoyt Street, a marked APD vehicle passed him. T.M. saw the officer park on the right-hand side of the road next to the park. T.M. saw the officer exit his vehicle on the driver's side and draw his weapon. He said he could not see his weapon, but he could tell by the officer's stance that he had it drawn. T.M. said that he saw a younger adult Samoan male with his shirt off in the intersection on the opposite side of the road. T.M. explained it was cold out, so seeing the male with his shirt off raised a red flag for him. T.M. saw the officer step away from his vehicle. T.M. saw the male with no shirt on was holding a long silver knife in his left hand. T.M. heard the officer yell at the male multiple times to get down or put the knife down. He then saw the male with the knife speed up as he walked towards the officer. He described the walk as "aggressive." T.M. said that the male had the knife near his hip, but at one point raised it to his chest level and pointed it at the officer. T.M. said the officer kept backing up while telling the male to drop the knife. T.M. heard two shots fired and saw the suspect immediately drop. T.M. thought the officer was less than 10 feet from the male when he shot.

T.M. said he was near the church on Park when the incident happened, about 70 to 80 feet away from where the officer and the male were. T.M. was asked what he thought would have happened if the man with the knife had gotten any closer to the officer. T.M. stated, "I don't have a shadow of a doubt he was going to attack the officer". T.M. stated that the officer gave the man multiple chances to drop the knife.

b. D.R.

D.R. observed the incident from his vehicle, the black truck that is seen on Sgt. Dokken's bodycam video, facing Sgt. Dokken and his patrol vehicle. D.R. said that he turned down a street (Hoyt) and saw a man with no shirt on. He told detectives he did not see anything in the male's hands. He then saw an officer unholstering a gun. He told detectives he ducked down because he knows everyone is not a straight shot. He said he thought that the officer used his taser first, but the man with no shirt on kept moving. D.R. stated, "the guy wasn't in compliance, he was steady walking towards" the officer who had his gun drawn.

D.R. continued to duck down in his car until after the shooting was over. He said that as he was in his car, another patrol car drove on his right side and sideswiped his truck. D.R. did not hear anything outside of his truck, to include the gunshots, because he had his windows up and his music on. D.R. said he did not see a knife in the man's hand; he said it all happened very quickly.

Interview of Officer Witnesses

a. Officer Alexander Smith

Officer Alexander Smith has been with the Anchorage Police Department since 2022; he currently works patrol swing shift. On the evening of September 29, 2024, he was in uniform and driving a soft marked car and Officer Redding was riding with him. Officers Smith and Redding were dispatched to a 911 call that was suspicious as the details were vague and had changed over the course of multiple calls.

Officer Smith could see that the caller's address was near Thompson and Hoyt. Officer Redding contacted the complainant on speaker phone so both officers could hear the call. The caller, whom dispatch had identified as James Afuvai, told the officers that there was a man in front of him with a knife, but he could not go back into the house to get away from the man. Officer Smith felt that something was off given the information provided by dispatch. He told detectives he wanted to wait for another unit to arrive. Officer Smith pulled up a photo of Afuvai and also confirmed that he was on felony probation and was a red flag offender (meaning

someone who probation officers have noted to be violent or assaultive). The address probation had for Afuvai was the same as where the 911 call originated. Around this time, Sgt. Dokken said he would meet them at the Mizelle Substation.

Once Sgt. Dokken arrived, Officer Smith told him what they knew about the call, to include the information obtained from probation. Sgt. Dokken attached himself to the call as well, and they discussed how best to respond to the residence. Because the call indicated someone might be injured, Sgt. Dokken wanted Officers Smith and Redding to drive down Park St. to be sure no one was on the street immediately in danger. Officer Smith told detectives that as soon as he and Officer Redding approached the 501 Park Street residence area from Thompson, Officer Redding could see, through his binoculars, a shirtless male near 501 Park Street. Officer Redding said that the male appeared to match the description of James Afuvai. Officer Smith did not see a knife in the male's hand. After he saw the male, Officer Smith said he heard Sgt. Dokken radio that he saw a shirtless guy in the street and that he had a knife. Officer Smith started driving faster towards Sgt. Dokken, and switched on his emergency lights and sirens. As Officer Smith arrived at Hoyt and Thompson, he said there was a black truck turning down the street towards Sgt. Dokken. Officer Smith heard shots being fired, as well as a warning about crossfire. Officer Smith drove down Hoyt towards Sgt. Dokken. He described to detectives that he drove in front of the black truck and cut it off because he was worried it was in the line of fire.

When he got to Sgt. Dokken's location, Officer Smith said he saw the shirtless male lying on the ground with his back towards Officer Smith. Officer Smith said he pulled his taser in the event the man was still an active threat. He said when he saw that the man was not moving, he holstered his taser. He heard Sgt. Dokken and Officer Redding giving commands to drop the knife, which was still in the male's hand. Officer Smith said he then grabbed the knife from the man's hand and threw it to the side. He then started life saving measures. Officer Smith described the knife as a large black handled butcher knife about 14 inches in length.

b. Officer Hunter Redding

Officer Redding had worked for APD for about three years; he was working patrol swing shift. Officer Redding said that they were dispatched to a call at the 500 N. Park area. He said that the male reported that there was an emergency and that yesterday someone shot out his window. Dispatch indicated that the caller was not answering questions and that he was believed to be drunk or potentially experiencing a mental issue. Officer Redding called the complaint to gather more information. When the complaint answered, Officer Redding said the complainant asked if the officers were there. Officer Redding indicated he was not, and that he was calling to find out more information. The complainant would not give more information, but said he just wanted the officers to respond. He then told Officer Redding that there was a man in front of him with a knife. Officer Redding told him to go inside, but he said the caller just kept telling him to come.

Officer Redding described that the caller had a flat affect. Because of the suspicious nature of the call, Officers Smith and Redding decided to wait for another unit before they contacted the male. While waiting, he and Officer Smith did some research on the caller and identified him as James Afuvai. Officer Redding said they found out that Afuvai was on felony probation and was identified by probation as assaultive and mentally ill/unstable. Officer Redding called probation and confirmed this information.

Officer Redding indicated that they decided to wait for Officer Montgomery to respond, as he is part of the mental health response team. In the meantime, the officers decided to drive through and canvas the area and the residence. Both Officer Smith and Sgt. Dokken drove north on Bragaw and then east on Thompson Ave. At that point, Sgt. Dokken separated and went a different route. Officer Redding said when they got to near North Flower St, he saw, through binoculars, a male wearing either no shirt or a tan shirt; he described the male as being a pretty good distance away from where Officers Smith and Redding were positioned. Officer Redding said the male had an “afro” hair style, dark pants and tennis shoes. Officer Redding said something orange colored was sticking out of the male’s pants, but he wasn't sure what it was. He then heard Sgt. Dokken say on the radio that he saw a shirtless male. Officer Redding said

that this was immediately followed by Sgt. Dokken reporting the male had a knife. He said Officer Smith then activated his lights and responded to Sgt. Dokken's location. As they were turning southbound onto Hoyt, Officer Redding reported he could see Sgt. Dokken pointing his gun at the subject as the subject walked at a brisk pace towards Sgt. Dokken. Officer Redding reported he kept telling Officer Smith to watch for crossfire.

Officer Redding said as they drove towards Sgt. Dokken and Afuvai, he saw Afuvai "lower his weight" like he was about to start sprinting. He saw that Sgt. Dokken had his gun pointed at the suspect. Officer Redding then lost sight of both the male and Sgt. Dokken; he then heard two gunshots. Officer Redding said he never saw the male fall. Officer Smith stopped the car and Officer Redding exited from the passenger side with his pistol. Once the knife was taken from Afuvai, Sgt. Dokken and Officer Smith started life saving measures and Officer Redding retrieved the medical bag.

Officer Redding said when he last saw the male and Sgt. Dokken they were no more than 20 feet apart. Officer Redding said he never saw the knife until the subject was on the ground, because when he saw the male with his binoculars, the male's back was to him. He described the knife as 8-12 inches, with a black handle and a silver blade.

c. Sgt. James Dokken

Sgt. James Dokken was interviewed by APD homicide detectives on September 29, 2024. He has been an APD officer for 16 years, and is currently a patrol Sergeant. On September 29, 2024, he was working as a patrol Sergeant on swing shift. He was wearing a standard APD uniform and driving a marked patrol car. Sgt. Dokken reported he heard that Officer Redding and Officer Smith were dispatched to a call at 501 North Park. He recalled that Officer Smith requested back-up for the call. Sgt. Dokken heard Sgt. Mulvaney attach himself to the call. Sgt. Dokken asked Officer Redding and Officer Smith to meet him at the Mizelle Substation in Mountain View; he said that when they met there, Officer Smith told Sgt. Dokken that the 911 call seemed suspicious. Sgt. Dokken told detectives this caused him to pull up the information about the call in their system dispatchers' notes from 911 calls. Sgt. Dokken said that from what he read, he agreed with Officer Smith that the call was suspicious, specifically because the caller

would not identify himself, answer any questions, or provide any details regarding the reported emergency. Sgt. Dokken told detectives he decided that even though the report was vague and suspicious, there was still a chance someone could be hurt and so he determined officers needed to respond. Sgt. Dokken then attached, or added, himself to the call. He said that Officer Montgomery, who is part of APD's mental health crisis team, was also requested to join the call given the officers' concerns. Sgt. Dokken said Officer Montgomery was on his way, but was coming from the other side of town.

Sgt. Dokken told detectives he told Officer Smith to drive his soft marked car past the residence to make sure there was no one visibly injured. Meanwhile, Sgt. Dokken decided to drive north on Bragaw, head east on Peterkin to Park street where he would head north. He said he knew this route would pass Park Street about one block behind 501 North Park and would allow him to be in close proximity to Officers Smith and Redding. As he was nearing the 501 North Park area he observed a tan skinned adult male that he initially described as appearing to be Native.¹³ The male was shirtless and was wearing black pants and was standing on the corner outside of the 501 North Park residence.

Sgt. Dokken parked his marked patrol car next to the curb on Hoyt Street to wait for Officers Smith and Redding to finish their drive past the house and for Officer Montgomery to arrive. As he was parked, Sgt. Dokken saw an adult male walking eastbound on the south side of Thompson Avenue. According to Sgt. Dokken, the male was walking at a nonchalant pace with no expression on his face. As the individual walked from behind the trees, Sgt. Dokken could see it was the same male Sgt. Dokken saw standing outside of 501 North Park. At this time, Sgt. Dokken said he could not see the man's hands or lower body. Sgt. Dokken told detectives that with the closer distance, he realized the male was of Polynesian descent, not Native. Sgt. Dokken told detectives he believed the male could be the caller and thought the male was coming

¹³ This individual was later identified as James Afuvai and will be identified as such throughout Sgt. Dokken's interview. However, at the time of the incident and during the interview, Sgt. Dokken did not know the individual's identity.

out to contact him about the call. Sgt. Dokken said that it is not uncommon for someone to come and meet the police after they have called 911.

Sgt. Dokken said he decided to exit his car and contact the male. He told detectives that this was a safety decision, as contacting a citizen on foot is a safer position than an individual approaching an officer's car. Sgt. Dokken exited his patrol car and closed and locked the door. After he was out of his car, he told detectives he saw that the male had a knife in his right hand canted outward, in the general direction of Sgt. Dokken. Sgt. Dokken described the knife as having a polished silver blade with a black handle, and appeared to be a filet knife. Sgt. Dokken decided to draw his service pistol, a Glock 22, 40 caliber,¹⁴ versus a less lethal option as he was by himself and he did not know how far away Officers Smith and Redding were from him. Sgt. Dokken said that based on his experience, when an officer is alone, the officer should not arm him or herself with a less lethal option when faced with someone with a deadly weapon, such as a knife or a gun. Sgt. Dokken described that the distance between himself and the male with the knife was close enough that the individual would be able to close the gap between them very quickly, making use of a less lethal option unsafe for Sgt. Dokken. Sgt. Dokken said he radioed that the male had a knife.

Once he drew his pistol, Sgt. Dokken said he started backing up and commanding Afuvai to drop the knife. Afuvai did not drop the knife and continued to walk towards him. Sgt. Dokken noticed that Afuvai was walking in the middle of the street directly at him, and that Afuvai did not check for traffic or look anywhere other than directly at Sgt. Dokken. Sgt. Dokken noted that Afuvai did not comply with his commands and that his expression did not change as Afuvai moved towards Sgt. Dokken. At this point, Sgt. Dokken believed that Afuvai had every intention to come at him with the knife and either kill him or seriously injure him, and believed that Afuvai was attempting to commit "suicide by cop." Sgt. Dokken said he wanted to go back to his car, but realized that given the distance he had backed up and the distance Afuvai covered in moving towards Sgt. Dokken, he could not safely make it back to the vehicle and get inside. Sgt.

¹⁴ Sgt. Dokken stated that this weapon was fully loaded with a round in the chamber and fifteen rounds in the magazine.

Dokken, told detectives he therefore continued to back-up while commanding Afuvai to drop the knife. Sgt. Dokken could hear police sirens and thought he could continue to back up until those officers arrived.

Sgt. Dokken told detectives he saw a black truck turn around the corner and head towards him and Afuvai, and he realized that if he had to discharge his weapon, he could hit the truck. He told detectives because of this, he changed the angle of his retreat so the truck would not be in the potential line of fire. Sgt. Dokken said he then saw Afuvai suddenly lean forward; Sgt. Dokken described that based on his positioning and movements, he knew Afuvai was about to jog or run at him. Sgt. Dokken said he could not remember if he was still commanding Afuvai to drop the knife. Sgt. Dokken said Afuvai began running towards him while still holding the knife, and Sgt. Dokken realized that he was out of time and was going to need to use force to stop Afuvai.

Sgt. Dokken said when Afuvai began to run at him, Sgt. Dokken fired two shots in quick succession at Afuvai, intending to strike his torso, and then fired a third shot at his torso to attempt to stop him from advancing further. Sgt. Dokken said after the third shot, Afuvai collapsed right in front of Sgt. Dokken. He said that Afuvai still had the knife in his hand, but no longer appeared to be a threat. Sgt. Dokken said, Officers Smith and Redding arrived at the scene after Afuvai fell to the ground. They then started life saving measures.

Sgt. Dokken estimated that when he first shot at Afuvai he was twenty-one to twenty-four feet away from him. Based on his training and experience, Sgt. Dokken told detectives he knows that a person can cover a distance of 30 feet more quickly than an officer would be able to draw his weapon and defend himself.

Sgt. Dokken stated that had he seen the knife in the male's hand prior to exiting the car, he would not have exited his car and instead would have stayed in his car and backed-up the car. However, he told detectives he did not see the knife until after he was already out of his car.

Weapons Examination

Sgt. Dokken had a Glock 22, .40 caliber handgun. The weapon was loaded with a magazine that had a capacity to hold 15-rounds. When detectives examined the magazine, they found there were 12 rounds loaded, with one round in the chamber. The firearm was loaded with .40 S&W bullets. Sgt. Dokken was carrying two extra 15-round capacity magazines on his belt. Each magazine was examined and found to be loaded with 15 rounds of .40 S&W ammunition. Sgt. Dokken told investigators that his magazine was fully loaded and there was one round in the chamber, or 16 rounds total.

Medical Examiner's Report

The State Medical Examiner's Office performed an autopsy on James Afuvai's body. Dr. Kenneth Gallagher, M.D., issued a report setting forth his findings. Dr. Gallagher identified two gunshot wounds on Mr. Afuvai's body, one to his torso and one to his left thigh. Dr. Gallagher found that the cause of James Afuvai's death was the gunshot wound to his torso. Dr. Gallagher recovered deformed bullet fragments from each wound.

Crime Scene

The knife that Officer Smith took from Afuvai and tossed to the side was found among leaves along the sidewalk near where the shooting occurred. It was seized by the APD crime scene team. **See Figure 3.** Three shell casings were found near the area of the incident; these casings were consistent with the type of ammunition loaded in Sgt. Dokken's gun.



Figure 3

Analysis

Under Alaska law, any 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 an unlawful threat of imminent serious physical injury or death.¹⁵ This applies to both civilians and law enforcement officers. A person may not be legally justified in using deadly force if they can avoid this use by safely retreating.¹⁶ However, a law enforcement officer, if acting within the scope of authority of his or her employment, does not have a duty to retreat.¹⁷

Alaska statutes also set forth a special justification for law enforcement officers using deadly force while making an arrest or terminating an escape or attempted escape from custody.¹⁸ An officer may also use deadly force to the extent the officer reasonably believes the use of force is necessary to lawfully stop a person suspected to have committed a felony

¹⁵ AS 11.81.335(a); AS 11.81.340.

¹⁶ AS 11.81.335(b).

¹⁷ AS 11.81.335(b)(2).

¹⁸ AS 11.81.370(a).

involving the use of force against a person.¹⁹ And, an officer may use deadly force against a person who may otherwise endanger life or inflict serious physical injury unless arrested without delay.²⁰

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.”²¹ “Deadly weapon” is defined by Alaska law as “any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive[.]”²²

Under Alaska law, for the use of force to be appropriate, it must be reasonable, based both on a subjective and objective standard. A subjective standard is what the specific individual using the force actually believed was reasonably necessary. An objective standard is what the average, reasonable person, would have believed in the circumstances. A person’s right to use force in self-defense does not hinge on whether the person actually faced an imminent attack; it is sufficient that, given the circumstances, the person reasonably believed that they were about to be assaulted, even though this belief ultimately turned out to be mistaken.²³

In order to disprove a claim that a Sgt. Dokken was acting in self-defense, the State is required to prove, beyond a reasonable doubt, that he did not reasonably believe his action in shooting at Afuvai was necessary to defend himself against serious physical injury or death; and that an objective reasonable person would not have reasonably believed the same.

The potential criminal liability of Sgt. Dokken is governed by the above-referenced laws. When analyzing his conduct, the law requires an analysis based on the totality of the events. In this case, it is undisputed that Sgt. Dokken used deadly force against Afuvai, and his actions

¹⁹ AS 11.81.370(a)(1). “Felony” is further defined in AS 11.81.900(b)(25).

²⁰ AS 11.81.370(a)(3).

²¹ AS 11.81.900(b)(16). “Force” is further defined in AS 11.81.900(b)(28). “Serious Physical Injury” is further defined in AS 11.81.900(b)(59).

²² AS 11.81.900(b)(17).

²³ *McCracken v. State*, 914 P.2d 893, 898 (Alaska App. 1996).

must be analyzed under the law above to determine whether there is a legal justification for his use of deadly force under the circumstances

Sgt. Dokken came upon Afuvai as he was parked on Hoyt street responding to a suspicious 911 where it was believed someone was either injured or a violent crime had occurred. Sgt. Dokken saw an individual coming around the corner from 501 N. Park Street, the origination of the 911 call. He decided to contact the individual as he reasonably believed the individual was the 911 complainant. After exiting his vehicle and closing and locking his door, Sgt. Dokken noticed that the male individual had a knife and was advancing towards him. Sgt. Dokken, though not legally obligated to retreat, did immediately retreat. As Afuvai walked in the middle of Hoyt Street towards Sgt. Dokken, he gave Afuvai three commands to drop the knife. Afuvai did not drop the knife, and instead raised it at Sgt. Dokken and continued to advance. Sgt. Dokken continued to retreat, with his service weapon drawn and pointed at Afuvai and yelling at him to drop the knife. It was at this point, that Sgt. Dokken felt that Afuvai had every intention to come at him with a knife and he knew he would either be killed or seriously injured. Sgt. Dokken considered getting back in his patrol car for safety, but realized he had retreated too far away and did not believe he could run back to his car and safely enter it before Afuvai could close the gap between them. Therefore, he continued to retreat and command Afuvai to drop the knife.

Despite the commands, and Sgt. Dokken's weapon pointed at him, Afuvai sped up and began running at Sgt. Dokken. Sgt. Dokken felt that the only way he could stop Afuvai was to use force, but did not immediately do so because he saw a truck enter the scene and he didn't want to have any gunfire hit the truck. He therefore, altered his angle of retreat. Afuvai continued to advance on him and Sgt. Dokken yelled additional commands for him to drop the knife. When Afuvai did not stop and continued to run at him, Sgt. Dokken felt he had no choice in order to protect himself from death or serious physical injury other than to discharge his weapon. Sgt. Dokken fired two successive shots and then a third. It was after the third shot that Afuvai went down at which point he stopped shooting. Sgt. Dokken believed Afuvai was about 20 feet from him when he shot, and that Afuvai was not stopping on his own.

In this situation, Sgt. Dokken could legally use deadly force when and to the extent he reasonably believed the use of deadly force was necessary for self-defense against (1) death; or (2) serious physical injury to himself,²⁴ from James Afuvai's unlawful use of force. Sgt. Dokken was responding to a suspicious call where someone was either injured or a violent crime had occurred. Sgt. Dokken exited his vehicle to speak to an individual he reasonably believed was the 911 caller. It was not until he exited his vehicle, that he saw that Afuvai had a knife and was advancing towards him. Sgt. Dokken drew his weapon and gave numerous commands to Afuvai to drop the knife. Though he has no duty to retreat in this situation, Sgt. Dokken did retreat. Sgt. Dokken told detectives that based on his experience and training he knew that a person could close the distance of 30 feet before he would be able to use force to stop the threat.

Afuvai did not drop the knife and did not stop walking at Sgt. Dokken. In fact, he began speeding up his walk and then ran at Sgt. Dokken. When he continued to ignore commands to drop the knife and instead moved even closer to him and at a faster speed, it was reasonable for Sgt. Dokken to believe that he was in danger of death or serious physical injury from Afuvai. At this moment, Sgt. Dokken was the sole law enforcement officer on scene and did not know how far away his back-up was to arriving on scene.

Subjectively, based on the circumstances, it was reasonable for Sgt. Dokken to believe that James Afuvai, who was armed with a deadly weapon, was intending to kill or seriously injure him.

Objectively, Sgt. Dokken's belief that James Afuvai was about to inflict death or serious physical injury was also reasonable given that Afuvai was ordered five total times to drop the knife -of which he did not do. Afuvai also did not stop coming at Sgt. Dokken even though he was retreating and had his service weapon drawn and pointed at Afuvai. Instead of listening to Sgt. Dokken, Afuvai also sped up and ran at him while still holding the knife, rapidly closing the distance between himself and Sgt. Dokken.

²⁴ Sgt. Dokken never saw T.M., the individual walking his dog.

Given the short distance between Sgt. Dokken and James Afuvai, the fact that Afuvai began running at Sgt. Dokken who was retreating, the fact that Sgt. Dokken could not safely get back to his car for safety, and the known speed at which a person with a knife can cross short distances, the use of deadly force was reasonably necessary to prevent Sgt. Dokken from being harmed. Under the circumstances, Sgt. Dokken reasonably believed that he was about to be killed or assaulted by James Afuvai with a knife, i.e., a deadly weapon. The evidence supports a reasonable belief that the use of deadly force was legally justified under the circumstances.

Sgt. Dokken was legally justified in using deadly force against James Afuvai. In light of the totality of the circumstances, Sgt. Dokken's subjective belief that it was necessary to use deadly force to stop James Afuvai was objectively reasonable

Conclusion

The investigation corroborated Sgt. Dokken's account of the events. Based on all of the descriptions given by officers and civilians, the body worn camera and other video footage, the evidence uncovered by the crime scene detectives and at 501 N. Park St. and Sgt. Dokken's account of events, Sgt. Dokken was presented a threat of death or serious physical injury from James Afuvai's actions. Based on my review of these circumstances, Sgt. Dokken was legally justified in using deadly force to prevent James Afuvai from seriously injuring or killing him with a knife.

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Considering the totality of the circumstances in this case, the State will not file criminal charges in this matter related to the death of James Afuvai. If you, or other members of your department have any questions, please give me a call or email me. I can be reached at rachel.gernat@alaska.gov or (907) 269- 6250.

Sincerely,
TREG TAYLOR
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read 'Treg Taylor', written over a faint circular stamp or watermark.

Rachel K. Gernat
Assistant Attorney General
Office of Special Prosecutions

CC:
Mera Matthews
Attorney for Sgt. James Doken