

PATRICK LEBRUN
COUNTY AND PROSECUTING ATTORNEY
FREMONT COUNTY, WYOMING

Jodi Darrough
Daniel Stebner
Micah Wyatt

Ember Oakley
Timothy Hancock
Seth Griswold

Fremont County Courthouse
450 North 2nd St., Room 170
Lander, WY 82520
(307) 332-1162
FAX (307) 332-1029

Fremont County Justice Center
1160 Major Ave, Ste 300
Riverton, WY 82501
(307) 857-3653
FAX (307) 857-3652

November 29, 2019

Re: September 21, 2019 Riverton Police Officer Involved Shooting
Determinations and Conclusions

On September 21, 2019, at approximately 1:30 p.m., an employee of Walmart in Riverton, Wyoming contacted law enforcement informing that a man known to be Anderson Antelope, Sr. was intoxicated and driving one of the Walmart electric carts in and out of the parking lot.

At approximately 1:44 p.m., an Officer of the Riverton Police Department arrived, parking his patrol vehicle in the fire lane to the north of Mr. Antelope's location. At the time of this incident, a local veterans' organization was out front grilling food for a fundraiser. Mr. Antelope was at that location sitting at a picnic table, eating a hot dog when the Officer arrived. The Officer approached Mr. Antelope and began inquiring of Mr. Antelope's condition. According to witnesses within several feet of Mr. Antelope, the Officer spoke politely. While speaking to Mr. Antelope, the Officer decided to ask Mr. Antelope if he would provide a portable breath test to determine level of intoxication.

The Officer left Mr. Antelope and returned to his patrol vehicle to obtain a portable breath test machine. The Officer requested Mr. Antelope perform the breath test, and Mr. Antelope agreed. However, Mr. Antelope ultimately refused to blow properly into the machine. As it was obvious to the Officer and others sitting in close proximity that Mr. Antelope was highly intoxicated, the Officer concluded he should arrest Mr. Antelope for the crime of public intoxication. Mr. Antelope's blood alcohol concentration was later determined to be .284%.

The Officer informed Mr. Antelope he was under arrest. Mr. Antelope became angry during this time and was yelling. In order to both assist Mr. Antelope to his feet and effect an arrest, the Officer used a common wrist control technique upon Mr. Antelope grabbing hold of Mr.

Antelope's left wrist. Mr. Antelope then stated something to the effect of "You're going to need help, you're not big enough, and I am not going anywhere."

The Officer attempted verbal de-escalation techniques to calm Mr. Antelope. During this time, an identified witness began speaking to the Officer, diverting the Officer's complete attention from Mr. Antelope. This momentary distraction appears to have allowed Mr. Antelope sufficient stealth to retrieve a concealed knife approximately 6 inches in length using his right hand. Mr. Antelope then attempted to drive the knife into the Officer's chest. The rifle plate in the center of the Officer's armored vest stopped the knife from penetrating. Witnesses GC, DS, WH, PT, AO, and CA, all separately interviewed, all observed Antelope swinging the knife at the Officer. Analysis of the Officer's vest by the Wyoming Crime Laboratory observed a cut in the area of the knife strike.

The Officer both observed and felt the knife impact his chest.

Mr. Antelope placed the Officer in an untenable position. Several people were located within 5 to 10 feet of Mr. Antelope who was armed and clearly trying to kill. For that reason, the Officer could not release Mr. Antelope's left arm because of concern that Mr. Antelope would attempt to stab others in the immediate vicinity including at least one man in his 80s.

Under these circumstances, the Officer had no other option than to stand his ground, draw his firearm and demand that Antelope drop the knife. The Officer demanded that Antelope drop the knife at least twice, and when it became apparent to the Officer that Antelope was trying to strike with the knife again, the Officer discharged his firearm. Antelope was killed instantly.

Under Wyoming law, when a person has a reasonable belief that his life or the lives of others are in immediate peril at the hands of another, he may take all actions necessary at that moment to preserve his life and the lives of others, which includes deadly force. In the circumstances arising in this case, the only reasonable action that the Officer could have taken was exactly the action that he took. Had he done otherwise, not only would he have jeopardized his own life, but the lives of the citizens in the immediate vicinity.

As the elected County Attorney for Fremont County, it is my duty and obligation to review and study each interview, crime lab analysis and all other pieces of available evidence. The investigation was completed and given to me by the Wyoming Division of Criminal Investigation (DCI). DCI is the agency responsible for investigation of officer-involved shootings. I have personally reviewed all of the evidence; and I believe the investigation to be complete and thorough. After the review of that evidence, it is my charge as an elected county attorney to apply Wyoming law to those facts, and make a determination as to whether a crime was committed. That determination is a *legal* conclusion of whether the acts of the officer were justified under the law when a citizen's life was taken. No other government official, elected or otherwise, has the legal authority to do so. My obligation exists so that finality may be established and healing might begin. Finally, it is my duty to summarize the facts of this matter for the public to see, which I have done with this document.

Even though a final determination has been made, the Coroner in Fremont County insists on a public display that can serve no purpose. It seems only to delay that healing process, while putting the Officer, and numerous other private citizens, through an unnecessary, expensive and possibly humiliating public spectacle. Further, this office has grave concerns regarding Due Process for the officer under the current procedure used by the Coroner. Earlier in 2019, the Coroner held an inquest. He specifically invited his 3-person, hand-selected jury to comment on the Officers' actions. That is very problematic because our Coroner is not a lawyer, and is not able to instruct the jurors, properly, on the Wyoming jurisprudence of self-defense and defense of others. No person's actions should be scrutinized and analyzed under incorrect presentations and assumptions of the law.

Steps have already been taken by the Coroner that highlight issues with the defective process when he indicated his desire to hand pick a person that has drawn conclusions, and publicly stated her bias against this Officer's actions. That is not an impartial juror. I cannot stop him; however, I am informing the community of the nature of the process, and know that the people of our community will recognize the inquest for what it is. Further, the community may reflect on holding a taxpayer-funded hearing when all determinations have been made in the case, and when according to Wyoming law and the Wyoming Supreme Court, the process the Coroner intends to use "has no probative effect." *Cassidy v. Teton County Coroner (In re Birkholz)*, 2019 WY 19.

Under Wyoming law, the Officer, under these facts, had the absolute right to defend his own life, and the lives of the several people within his immediate vicinity, with deadly force. Every action the Officer took was proper and lawful.

This Office will take no further action.

APPROVED AND ADOPTED:

S/ Patrick J. LeBrun
Patrick J. LeBrun
Fremont County Attorney