

# Memo

**To:** D/Sgt. Christopher Corriveau-Michigan State Police, First District Special Investigation Section  
**From:** Brian L. Mackie, Prosecuting Attorney *b. mackie*  
Steven Hiller, Chief Assistant Prosecuting Attorney *s. hiller*  
**CC:** Chief John Seto-Ann Arbor Police Department  
**Date:** 1/30/2015  
**Re:** MSP Report # 10-1075-14

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You have asked this office to review your report 10-1075-14 for the purpose of evaluating the use of deadly force by Ann Arbor Police Officer David Ried that resulted in the tragic and fatal shooting of Aura Rain Rosser at 2083 Winewood Street, City of Ann Arbor, and Washtenaw County on November 10, 2014. This office will review a peace officer's use of deadly force to determine if the officer may be criminally liable. The review undertaken in this case has been confined to that question only.

To conduct this review we have examined the following:

- Michigan Department of State Police original incident report # 10-1075-14, dated November 10, 2014, consisting of twenty four (24) pages, and authored by D/Sgt. Christopher Corriveau;
- Michigan Department of State Police supplemental incident report # 10-1075-14, dated November 12, 2014, consisting of eight (8) pages, and authored by Tpr. Jeff Frasier;
- Michigan Department of State Police supplemental incident report # 10-1075-14, dated November 10, 2014, consisting of three (3) pages, and authored by D/Sgt. Tom DeClercq;



- Ann Arbor Police Department Incident Recall Report printout dated November 10, 2014 and consisting of four (4) pages;
- Ann Arbor Police Department CAD D-Card dated November 10, 2014 and consisting of two (2) pages;
- Ann Arbor Police Department incident report 140056140 consisting of nineteen (19) pages, Officer in Charge D/Lt. Robert Pfannes and with a report date/time of 11/09/2014 23:51. This is a master report, and includes reports by the following officers:
  - Officer Mark Raab;
  - Officer Shellielynn Mathis;
  - S/Sgt. Mauro Cervantes;
  - S/Sgt. Colleen McCarthy;
  - Officer Elizabeth Cornell;
  - Officer John Gilbee;
  - Officer James Boylan;
  - D/Sgt. Patrick Hughes;
  - Officer Nader Jamil;
  - Officer Jeanette Jerore;
  - Officer Jeffrey Shafer;
  - D/Lt. Robert Pfannes; and
  - Officer David Ried

- Emergent Health Partners (Huron Valley Ambulance) Prehospital Care Report Summary dated 11/10/2014, consisting of four (4) pages, and signed by Technician Craig Harris;
- Affidavit for Search Warrant, Search Warrant, Return and Tabulation for 2083 Winewood Avenue, City of Ann Arbor dated November 10, 2014 and consisting of five (5) pages;
- Michigan State Police Crime Scene Sign-In/Sign-Out Sheet associated with MSP 10-1075-14 and consisting of 3 pages;
- Affidavit for Search Warrant, Search Warrant, Return and Tabulation for Washtenaw County Community Support and Treatment Center records of Aura Rain Rosser dated November 19, 2014 and consisting of six (6) pages;
- Washtenaw Community Health Organization Medication Review Note dated October 16, 2014, and consisting of four (4) pages;
- Ann Arbor Police Department Incident Report 140043957 consisting of seven (7) pages plus a one page attachment list, three (3) photocopied photograph, a copy of a one (1) page Washtenaw County Prosecuting Attorney Adult Denial memo, a one (1) page Ann Arbor Police Department Investigator Lead Sheet, and a one (1) page evidence list form (blank), Officer in Charge Det. Brandon Knobelsdorf and with an report date/time of 09/05/2014 02:48. This is a master report, and includes reports by the following officers:
  - Officer Jeffrey Shafer;
  - Det. Brandon Knobelsdorf;
  - Officer John Dunlap; and
  - PPA Marjorie Reynolds

- Ann Arbor Police Department Incident Report 140049689 consisting of four (4) pages, authored by Officer David Ried and with a report date/time of 10/04/2014 02:58;
- NMS Labs Toxicology Report dated 11/26/2014 and consisting of five (5) pages;
- University of Michigan Health System Postmortem Examination Report regarding Washtenaw County Medical Examiner case 81-14-0798, consisting of eight (8) pages, and authored by Jeffrey Jentzen, M.D., Ph.D.;
- Taser Evidence Sync Discharge Report dated 10 Nov 2014 regarding Taser X-26 serial number X00-182068 and consisting one (1) page;
- Michigan department of State Police Forensic Science Division Northville Laboratory report NV 14-9381 Record Number 1, dated November 21, 2014, consisting of three (3) pages plus a one (1) page scene diagram, and authored by Forensic Scientist Amanda Fazi. The subject of this report is processing the scene at 2083 Winewood Street and the collection of physical evidence;
- Michigan department of State Police Forensic Science Division Northville Laboratory report NV 14-9381 Record Number 3<sup>1</sup>, dated December 22, 2014, consisting of one (1) page, and authored by Forensic Scientist Amanda Fazi. The subject of this report is testing of a recovered knife for human blood, and evidence handling;
- Michigan department of State Police Forensic Science Division Northville Laboratory report NV 14-9381 Record Number 4, dated December 12, 2014, consisting of one (1) page, and authored by Forensic Scientist Ila Patel. The subject of this report is testing recovered evidence for the presence of controlled substances;

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<sup>1</sup> The Michigan State Police Northville Laboratory confirmed that there is no record # 2 associated with this case, and that there are 6 reports only.

- Michigan department of State Police Forensic Science Division Northville Laboratory report NV 14-9381 Record Number 5, dated January 6, 2015, consisting of one (1) page, and authored by Forensic Scientist Ashley Sellenraad. The subject of this report is fingerprint examination of the recovered knife;
- Michigan department of State Police Forensic Science Division Northville Laboratory report NV 14-9381 Record Number 6, dated January 9, 2015, consisting of two (2) pages, and authored by D/Sgt. Specialist Dean Molnar, Jr. The subject of this report is firearms examination;
- Michigan department of State Police Forensic Science Division Northville Laboratory report NV 14-9381 Record Number 7, dated January 8, 2015, consisting of two (2) pages, and authored by Forensic Scientist Andrea Halvorson Young, M.S. The subject of this report is DNA testing of the recovered knife;
- A Michigan Department of State Police supplemental incident report 10-1075-14 dated January 14, 2015, consisting of one (1) page and authored by D/Sgt. Christopher Corriveau; and
- Fourteen (14) compact discs containing recordings of witness statements, a 911 call, Ann Arbor Police Department radio traffic, plus photographs and records.

In addition, CAPA Hiller conferred with Sgt. Barry Schrader of the Michigan State Police Training Academy, who is referenced in D/Sgt. Corriveau's report, and Ann Arbor Police Staff Sergeant Mauro Cervantes, and PA Mackie and CAPA Hiller met with Medical Examiner Jeffrey Jentzen, M.D., Ph.D.

#### The Circumstances Of The Death Of Aura R. Rosser

Shortly before midnight on Sunday, November 9, 2014 Ann Arbor police officers Mark Raab and David Ried were dispatched to 2083 Winewood Avenue in the City of Ann Arbor in response to a 911 call for help from the homeowner, Victor L. Stephens, who said a woman named Aura Rosser had attacked

him and she had a knife. Mr. Stephens shared 2083 Winewood with several other people, including Aura Rain Rosser.

Aura Rosser, age 40, suffered from a serious mental illness, but the evidence showed that she had not been taking her prescribed medications at the time of her death. During the search of the house, D/Sgt. Corriveau found two prescription bottles for psychotropic medications<sup>2</sup>. The labels of the bottles bore Ms. Rosser's name and were dated several weeks before November 10, but none of the pills had been taken (in fact one bottle that was supposed to contain 90 pills contained 133. The toxicology tests conducted as part of the Medical Examiner's investigation showed that neither of the prescribed medications was present in Ms. Rosser's system at a therapeutic level. The toxicology report does show high levels of cocaine, cocaine metabolites and alcohol in Ms. Rosser's system, indicating that she had recently ingested large amounts of both cocaine and alcohol. Witness statements and evidence found in the home<sup>3</sup> made it clear that Ms. Rosser had smoked crack cocaine. In our discussion, Dr. Jentzen explained that cocaine and alcohol can combine in the bloodstream and act synergistically. The combined cocaine-alcohol by product is called cocaethylene, and it was found in Aura Rosser's system during the autopsy testing. Dr. Jentzen also explained that the effects of high levels of cocaine and cocaethylene can be exacerbated when a person has discontinued prescribed psychotropic medicine, and they can become highly agitated, aggressive and violent. People in this state often appear delirious and exhibit wide eyed stares. These facts provide some insight about Ms. Rosser's appearance and conduct leading to the tragedy that occurred just after midnight on November 10.

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<sup>2</sup> The label on one bottle read that it was for 300 milligrams for Lithium Carbonate, and that it was dispensed to Ms. Rosser on September 29, 2014, with instructions to take 1 pill 3 times a day. The quantity of pills listed on the label was 90. D/Sgt. Corriveau counted the pills in that bottle and found that it contained 90 pills. The label on the other bottle read that it was for 1 milligram Risperidone, and that it was dispensed to Ms. Rosser on September 2, 2014, with instructions to take 1 pill 3 times a day. The quantity of pills listed on the label was 90. D/Sgt. Corriveau counted the Risperidone pills and found that it contained 133 pills.

<sup>3</sup> In the same room where Aura Rosser's medications were found, the State Police found two metal spoons, charred on the back, and containing a residue. The residue on one of the spoons was later tested by the Michigan State Police Northville Laboratory and it was found to be cocaine. Also found in the room were pieces of Chore Boy metal scrubbers which showed charring. Metal scrubbers, such as Chore Boy, are used in the smoking of crack cocaine.

The Ann Arbor Police had been to 2083 Winewood and had contact with both Victor Stephens and Aura Rosser previously for similar complaints. On one occasion it was alleged by Mr. Stephens that Ms. Rosser had chased him with a knife, which Ms. Rosser later denied. On another occasion Victor Stephens complained that Aura Rosser had called someone to attack him. Officer Ried handled that call and had contact with Ms. Rosser without incident.<sup>4</sup>

Shortly before midnight on November 9, 2014 Washtenaw County Metro Dispatch received a 911 call from Victor Stephens. On the 911 call Mr. Stephens sounded upset and frightened. He asked the police to come and remove Ms. Rosser from the house because "she jumped on me." At first Mr. Stephens stated that he had locked himself in his room. He said Ms. Rosser had been drinking "real heavy", and that she had assaulted him before. He said that she had a knife, and repeatedly asked for the police to "come and get her." Twice during the call Mr. Stephens abandoned the telephone and loud arguing can be heard in the background. At one point Mr. Stephens can be heard yelling "[p]ut that shit down, bitch!" Mr. Stephens can also be heard telling someone to get out of his house. There is also heard a female voice—highly agitated and aggressive. When Mr. Stephens returned to the phone he told the 911 operator that he may need an ambulance "for my hand", and then states "I need the police. As soon as possible." Mr. Stephens then again abandoned the phone and more angry yelling can be heard in the background, before the phone went dead.

Shortly after Victor Stephens' phone call to Metro Dispatch was disconnected the Baker-22 car carrying Officers Raab and Ried called in their arrival at 2083 Winewood. As the officers approached the front of Victor Stephens house they heard yelling from inside. Officer Raab heard a female state that she had a knife and a male voice asking "what are your gonna do, stab me?" The officers then heard a loud thump, which Officer Raab described as sounding like "the weight of a human falling to the floor or bumping against a wall."<sup>5</sup> Upon hearing that, the officers entered the home through the front door.

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<sup>4</sup> Ann Arbor Police Department reports 140043957 & 140049689.

<sup>5</sup> In his report Officer Ried describes the sound as like "a hand slapping on wood." In his statement to D/Sgt. Corriveau, Victor Stephens stated that he and Ms. Rosser had been arguing, pushing and shoving, and that she had torn his shirt before he went into his bedroom and called 911.

The front area house was well lit. However, Officer Ried used his flashlight to see down the central hallway that bifurcates the house past the open living room area to their left and the kitchen dining area to their right. The distance from the rear bedroom door, where the hallway ends, to the front door is just over thirty feet.<sup>6</sup> The distance from the rear bedroom door to the back wall of the living room is 16'3".

When the officers entered the home they saw Aura Rosser and Victor Stephens struggling in the hallway near the door to the bathroom, approximately twenty feet from the officer's position. Ms.

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Mr. Stephens stated that when he came out of the room Ms. Rosser attacked him with the knife and he grabbed her wrist to defend himself. Mr. Stephens said that they were in the hallway near the bathroom door. At this time the police entered the house and Mr. Stephens heard them announce "police".

There were others present in the home when this occurred. Leigha Murphy stated that she was in the basement and did not know a shooting had occurred. She said that Mr. Stephens and Ms. Rosser had been arguing since they had awoken up and that they argued on a daily basis. Ms. Murphy said that at around 11:00 or 11:30 PM Mr. Stephens and Ms. Rosser were into the basement, arguing and she saw Ms. Rosser begin "swinging on Vic" and hitting Mr. Stephens in the face, while he tried to grab Ms. Rosser's hands. She saw Mr. Stephens grab a bottle and raise it up as if to hit Ms. Rosser, but Ms. Murphy intervened and Ms. Rosser did not get hit with the bottle. Ms. Murphy said she then kicked the two out of the basement, and they continued arguing upstairs. Ms. Murphy said sometime later in the evening she heard a loud noise and what sounded like someone falling.

Melissa Richardson was present but intoxicated. She first said that she was asleep when the shooting occurred, but that she heard Ms. Rosser and Mr. Stephens fighting. Ms. Richardson said that "they fight all the time" and "they swing knives around but nothing ever comes of it." She said she was in her room and heard a single gunshot and when she came out of her room Mr. Stephens was in the bathroom, Ms. Rosser was lying on the kitchen floor and the police were rushing in. Ms. Richardson did not see any part of the shooting.

Gregory Fairley said he was staying with Victor Stephens temporarily, and that he was in the basement. Mr. Fairley said that Mr. Stephens and Ms. Rosser arguing upstairs. He stated that he had seen them argue before and she always grabbed a knife when they fought. Mr. Fairley told the investigators that he came upstairs when he heard glass breaking and what he believed were 2 or 3 gunshots. (This was before the officers entered the house. There is no physical evidence that more than 1 gunshot was fired in the house by anyone that night. The only gunshot fired was Officer Ried's.) He saw Ms. Rosser with a knife in her hand standing outside the bathroom. Mr. Fairley said he saw Mr. Stephens come out of the bathroom and struggle with Ms. Rosser over the knife. He stated that he heard Ms. Rosser say "m----f----, I'm gonna get your ass!" He heard the police yell "get down" and "put your hands on your head", and what he believes were several shots. He said he saw Ms. Rosser get shot while she was holding the knife in her hand. Mr. Fairley state he then retreated to the basement.

Jerry Johnson was present in the home, but stated that he did not hear or see anything. Mr. Johnson was transported to the hospital for severe alcohol intoxication.

<sup>6</sup> The Michigan State Police evidence team (MSP-ET) that processed the scene measured the distance at 30'10". All distances are approximations based upon measurements by MSP-ET or D/Sgt. Corriveau.



Rosser was dressed in sweat pants but was unclothed from the waist up. Ms. Rosser held a knife<sup>7</sup> in her right hand and was attacking Victor Stephens with it. The officers describe Ms. Rosser gripping the knife in her right hand with the handle toward the her thumb and the blade extending from the outside of the palm, and her arm held so that the knife was roughly next to and parallel with her jaw line. Victor Stephens was holding Ms. Rosser's right wrist in an effort to fend off her attack. Officer Raab unholstered his Taser and Officer Ried drew his firearm.

Both officers identified themselves as the police and ordered Ms. Rosser to drop the knife. She did not comply. Instead she broke off her attack on Mr. Stephens, turned and, still holding the knife in an attack position, advanced on the officers.<sup>8</sup> Officer Raab described Ms. Rosser's eyes as being "extremely wide" as she approached him and his partner.<sup>9</sup> Officer Ried reported that he also repeatedly commanded Ms. Rosser to drop the knife. When she had advanced to within 6 to 10 feet of the officers they responded nearly simultaneously.<sup>10</sup> Officer Raab deployed his Taser with both probes striking Ms. Rosser. Officer Ried fired one shot. His bullet struck Ms. Rosser in the left chest. Aura Rosser fell to her left into the kitchen, still holding the knife. Officer Ried used his foot to remove the knife from Aura Rosser's hand and Officer Raab notified Metro Dispatcher that a shot had been fired in the house. Ms. Rosser died from the gunshot wound a short time later.

Pertinent additional facts will be cited in the findings section, below.

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<sup>7</sup> The knife is described by D/Sgt. Corriveau as a black handled kitchen knife with an approximate 4" stainless steel blade.

<sup>8</sup> Victor Stephens' statement to D/Sgt. Corriveau also said that when the officers announced their presence and told Ms. Rosser to drop the knife she turned on and advance toward the officers, holding the knife as they described.

<sup>9</sup> Officer Ried wrote that Ms. Rosser "appeared to be looking directly at us with her eyes wide open with what appeared to be a blank stare." Mr. Stephens described Ms. Rosser as having "hot eyes" and that he had "seen them before".

<sup>10</sup> Officer Raab estimated the distance at between 6 to 8 feet, and Officer Reid's estimate was 10 feet. Bearing in mind that they were not standing in exactly the same spot, they may both be right. Victor Stephens, who was standing in the darker hallway, and behind Aura Rosser (who was moving away from him) puts the distance at approximately 15 feet. Based on the physical evidence, the layout of the house, and where Ms. Rosser fell 15 feet is too far and 6 to 10 feet is far more likely. However, even a fifteen foot gap would mean that the officers were faced with an armed attacker who was within 2 seconds of being able to complete the attack.

## Law

A person, including a peace officer, may use deadly force in self-defense or defense of others under the following circumstances:

1. The person must honestly and reasonably believe that there is a danger he or another person will be killed or seriously injured.
2. The person must honestly and reasonably believe that the use of deadly force is immediately necessary.

See MCL 780.971, *et seq.*: Michigan Criminal Jury Instructions 2d, 7.15. If the person's belief that deadly force was immediately necessary is honest and reasonable at the time, it does not matter that person is later shown to be wrong about the level of the danger. CJI 2d, 7.15(3). The reasonableness of a person's belief must be judged based on how the circumstances appeared to him at the time he acted. See People v Doss, 406 Mich 90, 276 NW2d 9 (1979); Alexander v Riccinto, 192 Mich App 65, 481 NW 2d 6 (1992); People v Shelton, 64 Mich App 154, 235 NW 2d (93); CJI 2d 715(2). A person who is not committing a crime and is in a place the person has a right to be does not have a duty to retreat before using deadly force in self-defense. MCL 780.972. Additionally, a peace officer sworn to protect the public cannot retreat from a situation if doing so would leave civilians or other officers exposed to the threat from which the officer retreats. See Doss, *supra*. As a society we expect peace officers to place themselves between the civilian population and danger. The result is that a peace officer has both a right and a duty to defend others, but this reality does not diminish an officer's right to self-defense.

## Findings

Our office reviewed the actions of Officer David Ried that resulted in the tragic death of Aura Rain Rosser to determine if Officer Ried committed a crime. In deciding whether to file a criminal complaint the Prosecuting Attorney's Office employs the following standard:

A reviewing prosecutor should authorize a criminal charge only when a logical and thorough examination of the evidence and the law convinces the reviewing prosecutor that the accused is guilty of a crime, that the available admissible evidence is sufficient to create a reasonable possibility of proving guilt to a jury beyond a reasonable doubt, and that proceeding with prosecution is in the interests of justice.

In making a charging decision the prosecutor must necessarily assess the quality of the available evidence, including the statements of witnesses. No credible investigation will have witnesses that completely agree with one another on every point, and that is not the case here. However, substantial agreement does exist in this case on the most important points of consideration. There is no disagreement that Ms. Rosser was aggressive and threatening toward Victor Stephens, and the evidence clearly establishes that she was armed with a knife. It is also clear that Ms. Rosser turned on and was advancing toward the officers while still armed with the knife. Based upon where she fell she had clearly passed out of the hallway past the rear wall of the living room and had closed to within a short distance of the officers, who continued to command her to drop her knife. Sergeant Barry Schrader is an instructor of defensive tactics for the Michigan State Police. Sergeant Schrader explained to D/Sgt. Corriveau that officers are now trained that to be safe they should keep 30 feet between themselves and an attacker with an edged weapon.<sup>11</sup> Sgt. Schrader also explained that an attacker can cover a distance of 13 to 14 feet in between 1.2 and 1.4 seconds. The officers estimated that Ms. Rosser was between 6 and 10 feet away when they tased and shot her. Both officers reported being in fear for their lives, and it is significant that both officers exercised the use of force at nearly the same moment. The fact that Officer Raab chose to draw his Taser does not make Officer Ried's decision to draw his sidearm a criminal act. The law of self-defense does not require that the least harmful means be employed before a more harmful level of force may be lawfully used. The law only requires that the actor possess an honest and reasonable belief that it was necessary to use deadly force to protect himself or another from death or great bodily harm. When Officer Ried drew his gun Ms. Rosser was wielding a knife at Victor Stephens. Had Ms. Rosser continued on her attack on Mr. Stephens, then Officer Ried may well have had to shoot her in order to protect Mr. Stephens. Instead,

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<sup>11</sup> In this regard, it is important to bear in mind that the entire distance in Victor Stephens' house from the front door to the end of the central hallway is *barely* over 30 feet in total.

the officers announced their presence, identified themselves as the police and ordered her to disarm, but in doing so they made themselves the target of her attack. Retreat was not an option for the officers. Had they withdrawn from the scene they would have also been abandoning Victor Stephens and the other people in the house to an armed, irate and assaultive woman. It was their duty to stay. Ms. Rosser had to stop, but she did not. When she continued to advance upon the officers and closed to a distance that made her an immediate and deadly threat, Officer Ried fired one gunshot.

When a prosecutor is called upon to evaluate a killing and there is an issue of self-defense, the prosecutor must evaluate all of the available evidence of self-defense in the same way as all of the other available evidence. When, as is the case here, the evidence supporting self-defense is so strong that there is no likelihood that the prosecution would be able to carry its burden of disproving self-defense beyond a reasonable doubt, it is the duty of an ethical prosecutor to deny criminal prosecution.

After a review of the thorough and professional investigation by the Michigan State Police including all of the evidence gathered, it is our conclusion that when Officer David Ried shot and killed Aura Rain Rosser on November 10, 2014 he acted in lawful self-defense. Ms. Rosser's death, although tragic, was justifiable homicide.