



OFFICE OF THE COMMONWEALTH'S ATTORNEY
for the
COUNTY OF ALBEMARLE

DENISE Y. LUNSFORD
COMMONWEALTH'S ATTORNEY

PHONE: (434) 972-4072
FAX: (434) 972-4093

June 13, 2013

DARBY G. LOWE
DEPUTY COMMONWEALTH'S ATTORNEY
JON R. ZUG
ELLIOTT J. CASEY
MATTHEW J. QUATRARA
CARRENE L. WALKER
ASSISTANTS

Colonel Steve Sellers, Chief
Albemarle County Police Department
1600 5th Street, Suite D
Charlottesville, VA 22902

RE: May 21, 2013 Crozet Shooting

Dear Steve:

I have received and reviewed the information from Detective James Hope regarding the above matter. I appreciate the time and effort made by the Albemarle County Police Department to provide me with the necessary details so that I could timely complete my review. The following is my legal analysis of the matter.

Facts

Just after 10:00 a.m. on May 21, 2013 Albemarle County Police were dispatched to a shooting in the Crozet area of Albemarle County. Officers arrived to find a 10 year-old female lying behind a loveseat in the living room of the residence, the victim of an apparent gunshot wound. Western Albemarle Rescue Squad arrived shortly thereafter and confirmed that the child was dead. The investigation revealed the facts as follows.

On the morning of May 21, the adult members of the household left home to attend to business. It was not unusual for the children of the household to be left at home to wake themselves, attend to their needs, and begin school work on their own. The children ranged in age from 9 to 15 and were homeschooled. Two of the children had talked to their mother after they woke and informed her that everything at home was fine. The children were described as having normal sibling relationships with no indication of a disagreement prior to the incident.

The night before the incident, one of the children, a 13 year-old male, had been cleaning his firearm in the living room prior to going to bed. The firearm, a shotgun, had been given to him by a relative the year before. The firearm was not working properly and, in an attempt to repair it, he had taken it apart, cleaned it, and believed he had fixed the problem. He had left the firearm with the safety on overnight. The morning of the incident, the boy returned to the living

room and to the firearm and was making a modification. In making the modification and again repairing the problem the safety was disengaged. The boy was cycling shells through the firearm to make sure that it was in proper working order. None of the repairs or modifications would have required that his finger be on the trigger of the firearm. The boy had removed two shells from the firearm but had forgotten to remove the shell loaded in the chamber. In cycling the shells to check functioning, the firearm discharged.

At the time of discharge, the firearm was pointed in the direction of the loveseat and down a hallway. The boy's 10 year-old sister was standing behind the loveseat where her younger sibling was seated. The 13 year-old did not recall pulling the trigger but acknowledged that his hand would have been near the trigger at the time. He had raised the firearm to the level of his face in order to examine it prior to its discharge. After the gun discharged, the boy ran to get his older sibling. The two went to a neighbor's house. The neighbor called 911 and the children called their mother. When they returned to their house, the older sibling attempted CPR on the 10 year-old.

The father of the children informed officers that he had never seen the 13 year-old handle the gun in a way that caused him concern. The firearm was a gift to the boy from a relative after completion of a hunters' safety class. A search of the boy's room revealed a Hunter Education Course completion certificate dated August 25, 2012. The boy enjoyed hunting with relatives and friends of the family. While there was no rule about ammunition in the house or near the firearm, the parents were likely unaware that ammunition was in the house. The boy did store the firearm in an unloaded condition and reported that the ammunition was stored separate from the firearm. The father reported that the boy was normally very cautious about handling the firearm and had corrected the father on handling the weapon on occasion. The father stated that he trusted his son with the firearm and that his son was knowledgeable about maintenance and care of the firearm. Finally, there were no conflicts between the siblings in the days prior to the incident and the boy was not known to have a temper. In fact, his father described the boy as 'tender-hearted'.

Investigation

Officers began their investigation immediately. In addition to examining the scene and executing a search warrant, investigators interviewed all family members and witnesses. Child witnesses were interviewed in the presence of a parent.

The physical evidence at the scene, including the location, position and condition of the 10 year-old, the markings on the walls, and the location of the firearm, were consistent with the information provided by witnesses, including the 13 year-old boy. Additionally, the statements of the witnesses, taken outside the presence of each other, were internally consistent and