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for the  
**COUNTY OF ALBEMARLE**

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**RE: Gregory Rosson Incident of June 8, 2013  
Officer Involved Shooting**

Dear Col. Sellers, Captain Lyon and S/A Fielding:

Thank you all for the information and assistance provided to me for my review of the above incident which occurred on June 8, 2013 in Albemarle County. Captain Lyon, thank you also for the prompt response of the Virginia State Police and for the assistance provided to our County. I have reviewed all information provided to me by Special Agent Fielding and others after the investigation conducted by the Virginia State Police as well as that provided by Albemarle County Police Detectives. This is to summarize my legal analysis regarding the officer involved shooting which occurred during this incident. The following facts and investigative information are taken from records and recordings from the Emergency Communications Center, officer in-car videos, witness statements from ACPD Officers and others, scene processing, and various other materials gathered through the investigation.

Facts

At 2:16 a.m. on June 8, 2013, the Charlottesville, University of Virginia, Albemarle County Emergency Communications Center ("ECC") received an emergency call regarding an incident which was in progress on Route 250 at Afton Mountain. The location was later determined to be 9049 Rockfish Gap Turnpike (the "Location").

The caller, who identified herself as the mother of Greg Rosson ("Rosson"), stated that her son was choking his girlfriend. The caller reported that Rosson's girlfriend had called her. While they were talking, the girlfriend told the caller that Rosson's dog was "here," at her home, and that Rosson must be nearby. The caller reported that the girlfriend screamed and the phone went dead. The caller reported she had called both Rosson and his girlfriend back, finally getting through on the girlfriend's phone. Rosson answered the girlfriend's phone and told the caller that he was choking his girlfriend who was in his arms. Rosson reportedly also told the caller that the caller would be "next" as soon as he, Rosson, got to the caller's home. ECC attempted to make contact with both the girlfriend and Rosson. Each call went to voice mail. ECC dispatched the incident as a Priority 1 call at 02:16:45 while still on the line with the caller.

At the time of this incident, Officer James Larkin, on his regular shift, and Detective Jeremy Lavin, who was working an overtime assignment, were involved in a traffic stop in the Old Trail subdivision. Two other officers who were farther away from the incident, Officers Turner Lowery and Randy Herring, reported that they could respond to the Location. Shortly thereafter, at 02:17:31, Officer Larkin reported that he could also respond. Officers Larkin and Lowery were determined to be the primary responding officers and Herring was instructed to report back to his sector. Lowery was at least 15 minutes away from the Location at the time of the call. Officer Lavin was also asked to respond when available.

ECC remained on the call with the caller and continually provided updated information to officers as they drove to the Location. In addition to information about the incident in progress, ECC reported that the caller was unsure whether Rosson had a weapon on him. ECC call history revealed that Rosson had a rifle in his vehicle during a recent encounter with Albemarle County Police. The call history also revealed that during an encounter on June 3, 2013 another officer had requested that an additional officer respond because Rosson had become hostile with officers on the previous night. ECC provided this information to officers responding on June 8. During these updates and as he was responding to the Location, Larkin asked Lowery for his location and learned that Lowery was at least 10 minutes behind Larkin. Larkin was driving his marked Albemarle County Police vehicle and wearing his regular, department issue, uniform which identified him as a police officer and displayed his badge of authority.

In order to be prepared for a possible encounter with an armed suspect, Larkin stopped his vehicle at the Rockfish Gap Country Store, very close to the Location. Larkin removed his duty rifle from the trunk, readied the weapon, and placed it in the front passenger area of his police vehicle before continuing to the Location. In order to gain a tactical advantage as he approached the Location, Larkin did not activate his emergency lights or siren. As he travelled west on Route 250 and approached the Location, a vehicle came toward Larkin, travelling east on Route 250 proceeding down the mountain. Larkin got into the far right lane of travel and positioned his vehicle in an apparent attempt to determine if the vehicle was a black F150, the kind he had been informed Rosson drove. As he so positioned his vehicle Larkin was immediately across Route 250 from the Location. After the other vehicle passed him, Larkin proceeded across the road and pulled partially into the driveway, the rear of his vehicle partially extended into the east bound travel lane. Larkin had informed ECC that he was in the area of the Location at 02:29:58.

The only illumination of the area came from the lights on Larkin's vehicle. As he pulled into the driveway, Larkin's vehicle was facing an SUV. As his headlights illuminated the area, Larkin could see

feet, toes pointed up, extending from behind the SUV. Larkin stopped his vehicle due to the movement he saw. As he parked, the feet moved to Larkin's right behind the rear of the SUV as if the person was being pulled or was dragging him/herself backwards. At 02:30:56, when he observed the feet move behind the SUV and out of his line of sight, Larkin radioed ECC that there was one person on the ground. Although ECC asked Larkin to repeat the broken transmission he did not have time. Larkin exited his vehicle with his flashlight and duty weapon drawn.<sup>1</sup> As he exited his vehicle, Larkin heard the muffled sound of a woman's voice coming from the rear of the SUV. Although he could not understand specific words, the sounds led Larkin to believe that the woman was in distress.

Unaware of other people or threats which might be in the area and making note of a mobile home to the left of his position, Larkin moved around the rear of his vehicle and approached the SUV from the passenger side of his vehicle in order to use his vehicle for protection. As he moved around his vehicle, a man and woman, later determined to be Rosson and his girlfriend, were exposed in the beam of Larkin's flashlight. Larkin saw Rosson restraining the woman from behind with his arm in a chokehold type hold. Larkin could hear gasping sounds, consistent with choking, coming from the woman. In order to get closer to Rosson and the woman, Larkin had to cross a small ditch separating the Location from Route 250. His position near the SUV resulted in the ditch being behind him. Larkin identified himself as an Albemarle County Police Officer and commanded Rosson to stop and stay where he was. As he gave these commands, Larkin was near the driver's side front wheel of the SUV.

Not heeding Larkin's commands, Rosson looked at Larkin and punched the woman multiple times in the face and head with his free hand. Larkin continued to shout commands to Rosson. Rosson suddenly got to his feet and, without hesitation, charged at Larkin. Larkin described Rosson's movement as being as though Rosson were coming to kill him and stated that Rosson did not pause. At the time Rosson got to his feet and charged Larkin, Larkin was in the area of the front driver's side of the SUV and Rosson was at the rear of the SUV. Larkin discharged his duty weapon, aiming high because he was aware that the woman was lying on the ground behind Rosson and he wanted to avoid hitting her. Larkin fired until Rosson fell and then performed either a tactical or emergency reload of his weapon. He did not fire his weapon after reloading. Larkin informed ECC that shots were fired and asked that Rescue respond to the Location. The time was 02:31:25. Larkin was still the only officer at the Location.

After Rosson fell, Larkin took steps to protect himself and the woman. Larkin took cover at a nearby tree. He observed that the woman was partially unclothed and had injuries to her face and head. She was having difficulty recovering her breath. Larkin advised the woman to remain where she was and at 02:33:51 asked that an additional ambulance be sent to the Location.

Six minutes after Larkin called shots fired, at 02:37:31, Officer Turner Lowery arrived on the scene. Detective Lavin had just gotten into his vehicle when he heard Larkin indicate that shots had been fired. He arrived at the Location immediately after Lowery at 02:38:33. Lowery observed Larkin standing at Rosson's body with his weapon drawn and saw people at the door of the mobile home. Larkin asked Lowery to secure the people at the door so that they did not come to the area of the incident. When Lavin arrived he checked Rosson's condition. Rosson did not appear to be breathing and Lavin was unable to locate a pulse. Lavin attempted to perform CPR on Rosson and continued until Rescue arrived at 02:44. Rosson died at the scene.

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<sup>1</sup> The rifle was never removed from the passenger area of Larkin's vehicle by Larkin.

### Investigation

Officers began to secure the scene when Officer Lowery and Detective Lavin arrived. ACPD Officers established a crime scene perimeter and began a scene log. Sgt. Matthew Powers arrived and took control of the scene. Officers secured Larkin's vehicle and its contents as well as his duty weapon. In addition to ACPD supervisors, the Virginia State Police were notified and asked to respond regarding the officer involved shooting. When VSP arrived they were given control of the scene and began their investigation.

The woman was observed to have blood on her face and her eye was swollen shut. The woman was taken to the hospital. She had lacerations, bleeding, and "significant" bruising to her head and neck. An examination revealed dirt, abrasions, scrapes, and lacerations on her abdomen and back and scrapes bleeding, and bruises to her arms and legs.

During interviews by VSP agents, the woman stated that Rosson had choked her and she believes she became unconscious. At one point, the woman stated that she "came to" and begged Rosson to stop. Rosson stated that he would not. The woman further recalled an officer arriving on the scene. She recalled that the officer (Larkin) identified himself as Albemarle County Police and ordered Rosson to stop and stay where he was. When the woman heard the officer, she was on her back and the officer's voice came from her left. The woman hearing Larkin's voice come from her left is consistent with the positioning of the feet Larkin observed when he pulled into the driveway. The feet were positioned toes up and can be seen in the video extending toward the mobile homes parked in the area, extending away from the road. Larkin would have been to the left of the woman, who was on her back in this position, at the time he arrived and as he approached the side of the SUV. The woman stated that Rosson went after the officer and she heard three (3) or four (4) gunshots. Finally, the woman stated that Larkin "saved [her] life and his that night."

Rosson's body was located next to the left rear tire of the SUV. An autopsy was performed on Rosson and revealed five (5) gunshot wounds of the chest and one (1) of the neck. Two (2) of those wounds were determined to be fatal. A total of five (5) bullets were recovered from Rosson. The wound to the neck had both an entrance wound and an exit wound and most likely corresponded to one of the wounds to Rosson's chest indicating that the bullet passed through his neck and entered his chest at the left clavicle. This wound was not fatal. The fatal wounds involved injuries to the heart, esophagus, and lungs. Rosson died as a result of the significant loss of blood. Rosson's blood alcohol content was .17 to .18 at the time of his death.

The scene was processed by the VSP. Agents discovered four (4) spent cartridge casings in the ditch line along Route 250. These items along with Larkin's weapon were submitted to the lab. Larkin's weapon was determined to be in mechanical operating condition with all safety features functioning properly and was test fired for purposes of determining functioning as well as for comparison with casings and bullets recovered at the scene and from Rosson. The cartridge casings were identified as having been fired from Larkin's duty weapon. The five (5) bullets removed from Rosson's body were consistent with the caliber and brand of the casings as well as the other cartridges contained in Larkin's duty weapon and showed the same characteristics as those produced by the weapon but were insufficient for complete comparison.

A magazine contained in Larkin's duty belt and one recovered from the ground near Rosson's body were also secured and a cartridge count was performed by the VSP in order to precisely determine the number of shots fired due to the inconsistency between the number of gunshot wounds (6), the number of bullets recovered from Rosson (5), and the number of cartridges recovered at the scene (4). Larkin informed investigators that he fired his duty weapon until Rosson fell, performed a tactical or emergency reload, and did not fire again. According to Larkin, at the start of his shift his duty belt should have contained two (2) magazines. A third magazine was in his duty weapon. One (1) magazine from Larkin's duty belt was loaded at full capacity and contained fifteen (15) cartridges, the second magazine contained thirteen (13) cartridges. Larkin explained that some weeks prior to this incident he had responded to a call regarding a disabled deer in the road. Larkin shot the deer twice resulting in that magazine being short two (2) cartridges.<sup>2</sup> Sometime later he removed this magazine from his weapon and replaced it with a full magazine. He placed the thirteen (13) cartridge magazine in his duty belt along with one (1) other full magazine. Additionally, Larkin maintained his duty weapon with one "charged" or loaded in the weapon. According to this count, Larkin began his shift on June 8 with a total of forty-four (44) cartridges: fifteen (15) in each of two magazines, thirteen (13) in another magazine, and one (1) loaded in his duty weapon.

After the incident, the cartridge count by the VSP determined that there were a total of thirty-nine (39) cartridges remaining between the three (3) magazines and the weapon. The magazine recovered from Larkin's duty belt contained fifteen (15) cartridges. The magazine recovered from the ground contained ten (10) cartridges. The magazine loaded into the weapon contained thirteen (13) cartridges. One cartridge was loaded in the chamber of the duty weapon. This cartridge count established that Larkin had fired his weapon five (5) times and then performed a reload, exchanging the magazine in the weapon at the start of his shift, which was recovered from the ground, for the magazine from his duty belt containing thirteen (13) cartridges. This count also confirmed that Larkin did not fire after Rosson fell and Larkin performed a reload.

### Issues

This incident presents the issue of whether Larkin's actions on June 8, 2013 as they relate to Rosson justified the use of deadly force. This inquiry is based on the facts known to Larkin and the circumstances as they reasonably appeared to him at the time. The use of deadly force is an act of necessity. The necessity must be shown to exist or there must be such reasonable apprehension of imminent danger, defined as an immediate and perceived threat to one's safety or the safety of others, by some overt act as to amount to the creation of necessity.<sup>3</sup> I find that Larkin's actions were so justified.

### Legal Analysis

In the early morning of June 8, 2013, Officer Larkin was engaged in the performance of his duties as an Albemarle County Police Officer. As such, he was on patrol in Albemarle County, driving his department vehicle, armed with his issued duty weapon, and wearing his uniform and badge of

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<sup>2</sup> This incident was confirmed by ECC records.

<sup>3</sup> Couture v. Commonwealth, 51 Va. App. 239, 244, 250 (Va. App. 2008).

authority. When he received the call to respond to an incident occurring at the Location he did so alone and recognizing that the next available officer was at least ten (10) minutes away.

As he responded to the Location, Larkin received information from ECC. This information included reports that a victim was being actively choked by Rosson who had threatened to go to the caller's home when he finished with his victim. ECC provided information to Larkin about a previous encounter in which Rosson had a rifle in his possession and informed officers that the caller was unsure whether Rosson had a weapon in his possession on June 8. Further, Larkin learned that Rosson had become hostile during a recent encounter with officers resulting in additional officers being called to the scene. When he arrived at the Location, Larkin observed a person on the ground and saw the person being dragged or dragging him/herself, toes up, behind the SUV. Larkin had no way of knowing if there was more than one assailant or if there were other threats in the area. Accordingly, Larkin had his duty weapon at the ready when he exited his car to assess the reported assault.

When he positioned himself to view and assess the situation, Larkin saw Rosson with the woman in a chokehold, Rosson held the woman in front of him with his arm around her throat. Larkin heard choking sounds as he exited his car and approached Rosson and the woman, and believed the woman to be in distress. As Larkin commanded Rosson to stop and identified himself as an Albemarle County police officer, Rosson punched the woman several times in the head. Rosson then got up and immediately charged at Larkin, having ignored all commands to stop and stay where he was. Larkin feared for his life and discharged his weapon. When the threat of danger presented by the charging Rosson ended, Larkin stopped shooting.

It is important to note that Larkin was entitled to act in self-defense if he reasonably feared death or serious bodily injury at the hands of Rosson based on the circumstances as they appeared to him to exist at the time. Based on the nature of the call as reported to ECC along with the other information relayed by ECC, the scene as viewed by Larkin, the distance of the next responding officer, and the actions of Rosson himself, I find that circumstances existed which would have resulted in a reasonable fear of death or serious bodily injury.

#### Conclusion

This incident was tragic for each of the persons involved. However, the facts are not such that reasonable persons would differ in the outcome. As a result of the foregoing facts, investigation, and analysis, it is my determination that no charges be brought against Officer Larkin as a result of this incident. My office will not attempt to obtain indictments.

Again, thank you for the hard work of each of your departments in providing information to me for my analysis of this situation. Please feel free to contact me if you have any questions or concerns.

Sincerely,



Denise Lunsford

Albemarle County Commonwealth's Attorney