

DECEMBER 12, 2018



**REPORT OF THE HENNEPIN COUNTY
ATTORNEY'S OFFICE REGARDING THE
SHOOTING OF RONALD KLITZKA ON
NOVEMBER 11, 2017**

STATEMENT OF RELEVANT FACTS

Background Information

Ronald Lee Klitzka, "R. KLITZKA," was a resident of 5128 Angeline Avenue North, City of Crystal, County of Hennepin, State of Minnesota. He resided at that location with his wife, Nellie Klitzka, "N. Klitzka." R. KLITZKA was 62 years old at the time of his death. He was known to be a military veteran who had been under the care of mental health professionals for PTSD. Additionally, R. KLITZKA was known to own numerous firearms and to regularly attend a shooting range to fire his guns.

On November 6, 2017, R. KLITZKA went to his brother's residence located in the City of Brooklyn Park. R. KLITZKA went there as he had not heard from his brother, Frederick Klitzka, "F. Klitzka," for some time. R. KLITZKA entered F. Klitzka's residence and found him to be deceased from an apparent self-inflicted gunshot wound. Law enforcement was called to the scene. R. KLITZKA was visibly upset and made repeated statements to law enforcement about harming himself. Law enforcement officers placed a mental health hold on R. KLITZKA, who was transported to North Memorial Medical Center for evaluation. Medical records from North Memorial indicate that R. KLITZKA denied suicidal ideations while in the care of the facility and was only upset that his brother was dead. R. KLITZKA reported that he was the one who had given F. Klitzka the firearm that was used by F. Klitzka to commit suicide. R. KLITZKA reported that F. Klitzka had asked for money, but that R. KLITZKA refused to give it to him. R. KLITZKA also reported prior significant losses to staff at the hospital, including the death of his two year old son. Ultimately, R. KLITZKA was discharged from the hospital.

Date of Incident

On November 10, 2017, R. KLITZKA was with his wife, N. Klitzka. The two ran errands before returning home. N. Klitzka reported to officers that R. KLITZKA was acting abnormally and she asked him to check his blood sugar as he is a diabetic. N. Klitzka stated she was in the kitchen when R. KLITZKA came in holding a bottle of alcohol. N. Klitzka told R. KLITZKA that she would call the police if he did not stop drinking the alcohol. R. KLITZKA told her to get out of the house and was holding a firearm in his hand at the time. N. Klitzka left the home and later met with law enforcement at the perimeter of the incident scene.

R. KLITZKA's stepdaughter, Kari Snell, "Snell," learned that R. KLITZKA was making threatening statements and had a desire for self-harm. She contacted law enforcement and told officers that R. KLITZKA wanted to be shot by police officers based on the information she had received. Snell met with officers at the established command post and was able to provide information to law enforcement regarding R. KLITZKA's history as well as the layout of the home.

Law enforcement officers from the Crystal Police Department, Robbinsdale Police Department, and New Hope Police Department responded to the area. A perimeter was established and officers began to evacuate the neighbors living near R. KLITZKA's house. During this response, R. KLITZKA made repeated phone calls. These included calls to 911. In one call, R. KLITZKA was yelling that he was going to shoot himself and everyone. In a second call, R. KLITZKA stated something to the effect of coming out with guns blazing.

Officers became aware that R. KLITZKA was also calling a hospice service looking for a chaplain. R. KLITZKA was a former patient of the service. The on-call nurse, Nicole Ballingrud, "Ballingrud," contacted law enforcement. R. KLITZKA reported to Ballingrud that he wanted to die by a self-inflicted gunshot or by police. Ballingrud again contacted law enforcement after R. KLITZKA called a second time.

Ballingrud was able to relay real-time information about the statements made by R. KLITZKA, which included having firearms, seeking a “western shootout with the police,” and that he was going to shoot the police and blow up the house.

Officers later learned that R. KLITZKA called his brother-in-law, George Hamilton, “Hamilton.” Hamilton told officers that R. KLITZKA said he was going to “kill every mother fucker around” and that he was “going to come out shooting.” Hamilton said he heard a gunshot while on the phone with R. KLITZKA and R. KLITZKA stated, “See I went to my neighbor’s and blew her fucking head off!” R. KLITZKA went on to state: “I’m going to shoot em all. I can’t take it. I killed my mother. I killed my son and I killed my brother. It’s all my fault. Take care of [R. KLITZKA’s sister] and the kids.”

While R. KLITZKA was making these calls, law enforcement was continuing to position resources in an attempt to peacefully resolve the situation. Officer Timothy Tourville from the Crystal Police Department was at the command post with N. Klitzka and Snell attempting to make contact with R. KLITZKA. Law enforcement made repeated attempts to establish contact, but no meaningful ongoing communication was had. While these efforts were underway, a team of four officers began to make an approach to R. KLITZKA’s residence, including Sergeant Brandon Dorr and Officer Jacob Albers of the Crystal Police Department and Officer Doug Brunner and Officer Jared Kuyper of the New Hope Police Department. This response team was one house to the east of R. KLITZKA’s address. The officers were able to hear R. KLITZKA and noted he sounded erratic and angry. Additionally, these officers were able to see a red laser beam moving in tandem with R. KLITZKA’s movements. The red laser beam was consistent with what officers have observed mounted on firearms to assist with aiming, or commonly called a laser sight. This team also brought with a “less lethal” weapon, a shotgun that fires beanbags. It was decided that, if possible, the team would attempt to hit R. KLITZKA with the beanbags in an attempt to disarm and detain him.

Meanwhile, Officer Benjamin Harty of the New Hope Police Department was called to the scene. Officer Harty has training as a sniper and is assigned as such in the SWAT unit. It was determined that additional assets were going to be needed from the SWAT unit, including an armored vehicle. Officer Harty made his way to a position south of R. KLITZKA’s residence. He was at that location with Officer Casey Landherr of the Robbinsdale Police Department, who had already set up there to surveil R. KLITZKA’s residence.

While the approach team was monitoring R. KLITZKA, officers heard R. KLITZKA fire a gun in the garage. This information was relayed to the other officers on scene. In total, R. KLITZKA fired two (possibly three shots). Officers were unable to see the direction in which he was firing, but noted concern given his comments about shooting at innocent people and law enforcement alike.

Officer Harty set up his rifle and was able to watch R. KLITZKA through the rifle’s scope. Officer Harty reported having heard R. KLITZKA fire two gunshots. Officer Harty stated that he observed R. KLITZKA begin to exit the garage of the residence and noted R. KLITZKA activated the red laser beam once more. Officer Harty saw R. KLITZKA raise his arm holding the red laser beam and point it in his direction. Officer Harty had limited cover available to him due to the layout of the surrounding area and his need to have a clear line of sight to R. KLITZKA’s residence. Officer Harty reported he thought R. KLITZKA was going to fire a gun toward him and the other officers that were positioned in that direction. In response, Officer Harty aimed his rifle at R. KLITZKA’s head and pulled the trigger. Officer Harty stated he fired one shot and observed that R. KLITZKA fell to the ground.

The response team approached R. KLITZKA's person and observed he was not moving. Officers reported observing three handguns around R. KLITZKA. R. KLITZKA was not responding to officer commands and the decision was made to fire a beanbag round. R. KLITZKA did not respond to being struck by the beanbag. Officers approached and restrained R. KLITZKA in accordance with training. Additionally, the handguns were moved away from R. KLITZKA. Officers believed that R. KLITZKA was deceased based on the observed wound. Paramedics responded once the scene was safe and confirmed that R. KLITZKA was dead.

Investigators from the Hennepin County Sheriff's Office were called in to handle the investigation. A search warrant was obtained for R. KLITZKA's residence. Officers recovered the three handguns that were in the garage with R. KLITZKA. One of those weapons was found to have a laser sight attachment. An additional handgun, numerous boxes of ammunition, and the bottle of alcohol from which R. KLITZKA was drinking were recovered within the residence. Investigators were also able to document defects to garage cabinets consistent with gunshots and numerous metallic fragments consistent with bullet fragments.

A search warrant was also sought for the blood samples of Officer Harty and Officer Albers, who had fired the beanbag round. An analysis of those results revealed no alcohol or controlled substances in either officers' systems.

R. KLITZKA was transported to the Hennepin County Medical Examiner's Office for an autopsy. R. KLITZKA was found to have died as a result of a gunshot wound to his head.

HENNEPIN COUNTY ATTORNEY'S OFFICE REVIEW

The Hennepin County Sheriff's Office submitted its final reports to the Hennepin County Attorney's Office in late February 2018. The case was reviewed for any charges for which the Hennepin County Attorney would have jurisdiction. The final charging determination was made by Hennepin County Attorney Mike Freeman following his and two Assistant County Attorneys' review of the evidence.

LEGAL ANALYSIS REGARDING THE USE OF DEADLY FORCE

Legal Standard

To bring charges against a peace officer for using deadly force in the line of duty the State must be able to prove beyond a reasonable doubt that the use of force was not justified.¹ Minnesota law provides that a peace officer may use deadly force when necessary "to protect the peace officer or another from apparent death or great bodily harm."² The intentional discharge of a firearm constitutes deadly force.³ The United States Supreme Court has recognized the use of deadly force by a peace officer is justified where the officer has "probable cause to believe that the suspect pose[s] a threat of serious bodily harm either to the officer or to others."⁴ The Court also addressed the use of force by a peace officer in its

¹ *State v. Basting*, 572 N.W.2d 281, 286 (Minn. 1997).

² Minn. Stat. § 609.066, subd. 2.

³ Minn. Stat. § 609.066, subd. 1.

⁴ *Tennessee v. Garner*, 471 U.S. 1,11 (1985).

1989 decision, *Graham v. Connor*.⁵ Graham held an objective reasonableness standard should be utilized to evaluate an officer's use of force. The assessment of reasonableness requires "careful attention to the facts and circumstances of each particular case."

The Court then outlined a non-exhaustive list of factors for balancing an individual's rights vs. an officer's: 1) "the severity of the crime at issue;" 2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and 3) "whether he is actively resisting arrest or attempting to evade arrest by flight." Graham made clear that whether an officer used reasonable force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The Court stated allowance must be made for the fact the law enforcement officers are often required to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.⁶

Minn. Stat. § 609.66 and the constitutional standard, taken together, establish that if the officer's use of deadly force was objectively reasonable in the face of the danger of death or great bodily harm, no criminal charges against any such officer is supported.

The Use of Deadly Force Against Ronald Klitzka Was Authorized

The evidence detailed above as applied to the applicable law does not support the filing of criminal charges against Officer Harty or any of the other officers involved in this case. R. KLITZKA had made repeated statements that he intended to cause harm to himself, neighbors, and law enforcement. R. KLITZKA further fired a gun on two (possibly three) separate occasions while law enforcement was attempting to diffuse the situation. Officer Harty fired his weapon only after observing R. KLITZKA raise what was believed, and later determined, to be a handgun and point it in Officer Harty's direction. Officer Harty acted out of a reasonable fear of great bodily harm or death to himself, other officers, or citizens, and his use of deadly force was justified. Furthermore, it is evident that law enforcement attempted all other reasonable alternatives, including negotiation and attempting to deploy less-lethal tactics, in order to peacefully resolve the situation.

CONCLUSION

Criminal charges are not supported by evidence or appropriate under law in this case. However, this case is still very much a tragedy for all involved. It arose not from criminal intentions, but rather out of mental anguish associated with significant loss. Both the family of Ronald Klitzka and law enforcement attempted to provide him with assistance. Ultimately, while unfortunate, use of deadly force was objectively reasonable in the face of death or great bodily harm.

⁵ *Graham v. Conner*, 490 U.S. 386 (1989).

⁶ *Graham* at 396-397.