

HENNEPIN COUNTY
ATTORNEY'S OFFICE

COMPLAINT DENIAL

C.A. Case No. 24A10092

DATE: February 14, 2025

REFERRING AGENCY: Bureau of Criminal Apprehension

POLICE CASE NO. 21000399

SUBJECT: In re: Death of Winston Smith

REASON FOR DENIAL:

On June 3, 2021, law enforcement officers sought to execute an arrest warrant on Winston Boogie Smith. Mr. Smith was located in the Uptown area and surveilled until he entered a vehicle parked in a parking ramp. An adult female was also in the vehicle with Mr. Smith. It was at that time that law enforcement officers converged on the vehicle boxing it in. Officers approached the vehicle yelling orders for Mr. Smith to surrender and attempting to break the window of the vehicle. It was at that time that Mr. Smith brandished a handgun and fired at officers, who returned fire striking and killing Mr. Smith.

An investigation was performed by the Minnesota Bureau of Criminal Apprehension (BCA) following the incident. Notably, as the law enforcement officers were working with a Task Force under the U.S. Marshals Service, it was learned that no officers were wearing body worn cameras. The investigation was completed and submitted to the Hennepin County Attorney's Office (HCAO), which ultimately asked for review by the Crow Wing County Attorney's Office (CWCAO) on a conflict basis. That review, done by Crow Wing County Attorney Don Ryan, found that the use of deadly force by officers was justified and no criminal charges were warranted. This decision was communicated in a letter dated October 6, 2021.

On November 26, 2024, the BCA notified the HCAO that it had been able to access Mr. Smith's phone after a year of attempts. The BCA provided a copy of the video to the HCAO to review to determine what, if any, impact it had on the status of the case. HCAO reviewed the video and has determined that it does not change the conclusion previously reached by CWCAO that the use of force was legal. However, the video provides the first recording of events to show exactly what occurred within the vehicle prior to Mr. Smith's death.¹ While the video makes clear that officers followed policy and training, it also raises important questions about vehicle containment, which was policy at the time, and after action opportunities to review the use of other de-escalation techniques.

¹ The United States Marshals Service has since increased the use of BWC by its agents and task force officers. This action is commendable and should help provide additional clarity should an event such as this one occur in the future.

The video starts recording Mr. Smith as officers are at the vehicle demanding he exit. The female occupant in the vehicle is also pleading with Mr. Smith to listen to the officers' commands to exit. At that time, Mr. Smith is not acting aggressively and appears to be in a state of distress. The officers at the vehicle's window begin to strike it in an attempt to gain access to Mr. Smith. While the officers' actions are not captured on video, the noise of the strikes and glass shards coming from the window toward Mr. Smith are observable. It has been noted by the BCA that the glass of this window did not easily shatter. Therefore, to a casual observer of the video, it would be easy to mistake the sounds of the strikes and the ensuing glass shards as gunshots coming into the vehicle. It is unknown what Mr. Smith believed the actions to be, however, but his next action is to retrieve a handgun from the center console of the vehicle and begin to fire at officers. Officers then return fire, striking and killing Mr. Smith.

While the video clearly answers the question on the legality of the use of force employed, it does raise a new question of whether other options existed to take Mr. Smith into custody. All available evidence suggests the officers followed the U.S. Marshal's policies and their training to secure the apprehension of a wanted individual. Their conduct was legal. However, the view provided by the video warrants a conversation about opportunities for policy change, training, and use of de-escalation techniques that could be employed in the hope of avoiding the outcome observed here, namely a person in distress resorting to violence. The expertise of law enforcement is important to answering that question. Ultimately, that analysis is outside the scope of the HCAO's decision-making authority, which is limited to whether to reopen this matter. As noted above, the video supports the previously determination that the use of force was justified. However, the HCAO is committed to working with its law enforcement partners to fully understand police tactics that aim to keep officers, suspects, and the public safe.