



For Immediate Release  
October 14, 2014

County Attorney Stephen Hunting has completed the review of the law enforcement use of deadly force against Joseph Jennings. The incident occurred on August 23, 2014 in the parking lot of Orscheln Farm and Home located at 2008 S. Princeton in Ottawa, Kansas.

On August 23, 2014, the Kansas Bureau of Investigation was asked to investigate the officer involved shooting of Joseph Jennings in the parking lot of Orscheln Farm and Home located at 2008 S. Princeton in Ottawa, Kansas. This investigation came at the request of Ottawa Police Chief Dennis Butler and Franklin County Sheriff Jeff Richards. The Kansas Bureau of Investigation provided reports and evidence to the Franklin County Attorney's Office for review. The Franklin County Attorney's Office then reviewed the results of the investigation conducted by the Kansas Bureau of Investigation.

**The Franklin County Attorney's Office concludes that the uses of less-lethal and deadly force by officers from the Ottawa Police Department and deputies from the Franklin County Sheriff's Office were lawful and justified.**

Outlined below are a summary of facts relied upon in making this determination.

**Summary of Events**

Prior to the 911 call to dispatch

Mr. Joseph Jennings was treated at a local hospital on August 22, 2014 and was released the late afternoon of August 23, 2014. He was being treated for a reported overdose/ possible suicide attempt. Some of the law enforcement officers present during the fatal shooting were aware of or present for part of the events that occurred on August 22, 2014.

On August 23, 2014, after release from the hospital but prior to the 911 call to dispatch concerning a man with a gun, Mr. Jennings returned to his place of residence. According to a husband and wife who have identified themselves as Mr. Jennings aunt and uncle (they are not biologically related) Mr. Jennings laid down and rested for part of that late afternoon.

In the early evening hours, Mr. Jennings and his uncle went via motorcycle to the Wal-Mart located on Princeton Street, Ottawa, Kansas. After being in Wal-Mart for approximately 30 minutes, Mr. Jennings leaves Wal-Mart and is seen wearing sunglasses on his head.

The uncle indicated that shortly after arriving back home, Mr. Jennings indicated that he was going to ride his motorcycle. At some point, the motorcycle was not working correctly and this upset Mr. Jennings. According to the uncle, he and Mr. Jennings took a brief walk in a field near their home so Mr. Jennings could calm down. At some point, Mr. Jennings indicated to the uncle that he was going to walk over by the McDonald's (which is located off of Princeton Street), which the uncle indicated was a common occurrence.

Mr. Jennings was scheduled to appear in Franklin County District Court on Monday, August 25, 2014 for arraignment on a robbery case. The aunt of Mr. Jennings indicated during this investigation that this had been bothering Mr. Jennings, and he was worried about possibly going to prison.

#### 911 call to dispatch

On August 23, 2014 the Franklin County Dispatch Center received a 911 call during which the caller described a man in a blue shirt with white pants with a gun who was walking in between Wal-Mart and Orscheln Home and Farm, and kept putting the gun back in his waistline. The caller indicated that the man was walking on the north side of the road towards the Orscheln Home and Farm store, which is located at 2008 S. Princeton Street in Ottawa, Kansas. The caller indicated that the man had the gun right at his waistline, and his shirt covered it up.

The dispatcher asked for the name of the caller, and the caller identified himself as Mr. Joseph Jennings. Mr. Jennings was asked what kind of gun he saw, and he responded a black handgun. Mr. Jennings indicated that the man had pulled the gun out of his shirt, waved it around himself, cocked it, and put it back in his shirt. Mr. Jennings also indicated that the man was now walking from the bank towards Orscheln. Mr. Jennings's indicated that he, himself, was at Orscheln. Mr. Jennings described the male as younger, approximately 6'00 feet in height, weighing approximately 170 lbs., and who appeared to be without much hair.

The dispatcher requested that Mr. Jennings stay put in the parking lot and keep an eye on the man until law enforcement officers arrived. Mr. Jennings indicated that he could do that, and informed the dispatcher that the man was just standing in the parking lot of Orscheln. After Mr. Jennings relayed his home address information and the location of where he was currently living to the dispatcher, Mr. Jennings indicated that the man was halfway through the Orscheln parking lot. Mr. Jennings then told the dispatcher that he, Mr. Jennings, was going to get off the phone.

The dispatcher again requested that Mr. Jennings stay on the phone until an officer arrived, and Mr. Jennings stated he would try but expressed concern over being seen by the armed man. Mr. Jennings asked the dispatcher how long before the cops would come, and the dispatcher replied that it should be any minute. The dispatcher asked Mr. Jennings if the gun was still in the man's pocket or had the man been waving it around again. Mr. Jennings indicated the man had waved it

around once and the gun was back in the man's waistline. The dispatcher asked Mr. Jennings where the man was now located in the parking lot and Mr. Jennings indicated the man was in the middle of the parking lot.

The dispatcher asked Mr. Jennings if he saw the law enforcement officer, and Mr. Jennings ended the phone call. **Unbeknownst to the dispatcher, the location, physical, and clothing description of a person armed with a gun matched perfectly the description of the caller, Mr. Joseph Jennings.**

Dispatch advised responding officers that there was a report of a white male walking towards Orscheln, wearing a blue shirt, white jeans or pants, had a handgun, and he kept putting the handgun back in his waistband. Dispatch advised that the man's shirt was covering the weapon, and that it was in his waistband. Officers were instructed to respond without lights and sirens unless the man was doing something criminal because open carry and concealed carry with a permit is okay. The initial responding officers responded at the scene with no lights and siren. Additional units that arrived later, but prior to the shooting arrived with lights and/or sirens activated.

While law enforcement officers were still en route, a dispatcher advised over that the man kept pulling the weapon out and putting the weapon back in his waistband. The dispatcher relayed that the reporting party said that it seemed suspicious.

While still en route, a dispatcher advised over the radio that there was further clarification from the reporting party. The dispatcher relayed that the man had pulled the gun out of his shirt, cocked it, and then put it back in his shirt. The dispatcher relayed that the man never waved it around anybody; rather he just waved it around himself. The dispatcher also relayed that the reporting party still had a visual on the man, and that the man was in the Orscheln parking lot. The dispatcher relayed that the reporting party described the man to be younger, approximately 6 feet tall, weighing approximately 170 pounds, and doesn't have much hair.

A responding officer requested from dispatch the location of the man in the Orscheln parking lot. A dispatcher relayed that the reporting party advised in the man was located in the middle of the parking lot. The officer indicated that he understood and that he had arrived at the parking lot. At that same time, the reporting party, Mr. Joseph Jennings, disconnected the call with dispatch. Dispatch relayed over the radio that the reporting party disconnected the call.

**In summary, Mr. Jennings, unbeknownst to the dispatcher, called in a description of himself as the man carrying a cocked weapon in his waistband after having waved it around himself.**

### Officers Contact with Jennings prior to any use of force

Officers from the Ottawa Police Department and the Franklin County Sheriff's Office arrived at the Orscheln parking lot, and made contact with Mr. Joseph Jennings near the middle of the parking lot. Mr. Jennings was walking in the middle of the parking lot, and had his left hand down around his waistline.

Multiple officers commanded Mr. Jennings to show his hands. Mr. Jennings appeared to understand and comprehend what the officers had just commanded. Mr. Jennings raised his hand, albeit his right hand, high up into the air while looking at the officers and moving away. Mr. Jennings continued to keep his left hand down around his waistline, and starting slowly walking away from the officers. One officer said, "Joseph, come over here. You're not in any trouble. Get your hand away from your pant line for me." The officer again asked Joseph to come over to him. Mr. Jennings looked at the officer, ignored the request, and started to walk away.

According to officers, the position of Mr. Jennings left hand and the angle of his left forearm and elbow were consistent with that of someone holding a handgun in the waistline of their clothing. Mr. Jennings provided no other response to the officers' commands at this point.

Law enforcement officers got out their rifles, and began to follow Mr. Jennings. By this time, Mr. Jennings had walked past the southeast corner of the Orscheln building and some officers, if not all, did not have visual contact with Mr. Jennings. As a result, at least one law enforcement car was moved to a different part of the parking lot, and three members of the Ottawa Police Department and one member of the Franklin County Sheriff's Office began walking towards the direction of Mr. Jennings location.

As law enforcement officers were reaching the southeast corner of the Orscheln building, officers reinitiated commands to Mr. Jennings. They continually commanded Mr. Jennings to put his hands up. The law enforcement officers' weapons (rifles in this case) were drawn and being aimed at Mr. Jennings. Officers' were using the corner of the Orscheln building as cover for their protection as they gave Mr. Jennings commands. Mr. Jennings was called out several times by his first name, and he was repeatedly commanded by the officers to put his hands up. Mr. Jennings provided no response to the officers' repeated commands, and continued to keep his left hand down by his waistband while he paced back and forth.

While continually commanding Mr. Jennings to put his hands in the air, officers determined that they needed to control the northbound traffic on Princeton Street. A deputy moved over into street, with his rifle still being aimed at Mr. Jennings, to try and stop the flow of traffic that was moving northbound along Princeton Street. The deputy indicated later that he did this because he was concerned about Mr. Jennings possibly being hit by a car and vehicles possibly being struck

by gunfire. Officers also discussed the need for additional law enforcement officers to arrive to assist them. All the while, officers are commanding Mr. Jennings to stop moving and put his hands in the air. Again, Mr. Jennings provided no response to the officers' repeated commands, and continued to keep his left hand down by his waistband while he moved and paced.

The self-identified uncle, with whom Mr. Jennings had been living or staying with off and on over the years, arrived on foot at the scene. While initially approaching the scene, the male individual shouted out "Joe! Joe!" The deputy who was attempting to curtail the northbound traffic on Princeton Street shouted to the uncle to stay away. The uncle shouted that the person was his nephew and requested that he talk to his nephew. The uncle left on foot, but would return shortly on foot with his wife, the self-identified aunt.

At some point, additional deputies from the Sheriff's Office arrived and began to block northbound traffic with their vehicles. One deputy stayed with the vehicles blocking traffic, while another deputy moved closer to the scene of the standoff with Mr. Jennings. This deputy would later be involved as a shooter of Mr. Jennings. This deputy, armed with a rifle, positioned himself on the east side of Princeton Street using the hood of a minivan as cover. He was located to the south and the east of where Mr. Jennings was ultimately shot. At the time of the shooting, Mr. Jennings would have had his back partially angled to this deputy.

Officers continued to command Mr. Jennings to put his hands up. During this period of time, one of the officers indicated to the other officers that they needed to verify that Mr. Jennings had a gun. An officer told Mr. Jennings that everything was going to be alright; that he was not in any trouble; that the officers just wanted to talk to him; and that they needed to verify that Mr. Jennings didn't have anything on him. Officers continued to command Mr. Jennings to put his hands up. Again, Mr. Jennings provided no response to the officers' repeated commands, and continued to keep his left hand down by his waistband.

At this point, the uncle who had arrived earlier and identified Mr. Jennings as his nephew returned with his wife, the self-identified aunt. Officers began shouting at the aunt and uncle to get away, to get out of the way, and to go home. The pacing movements of Mr. Jennings continued. Officers continued to command the uncle and aunt to get out of the way.

An officer continued to tell Mr. Jennings to put his hands up. This officer told Mr. Jennings that he was just trying to talk to him and told Mr. Jennings to stop and put his hands up. Mr. Jennings provided no response to the officers, and continued to pace all about the area. At one point, Mr. Jennings had started to move towards the deputy near Princeton Street. The deputy was concerned that Mr. Jennings, who appeared somewhat crouched down, was going to take a run at him. Also, the deputy was still unable to see Mr. Jennings left hand. The deputy told Mr. Jennings to stop or he would kill him, and Mr. Jennings just stared at the deputy and started to

pace back and forth. The deputy began to retreat from his position, and move himself towards the other officers on scene.

During this time, the uncle who had returned was in close proximity to Mr. Jennings and was being instructed to get out of the way and to leave. The husband, who was in a black shirt, shouted back that “he was my son.”

The scene became chaotic because of the continued moving and pacing of Mr. Jennings, and the shouting and movements of the uncle and aunt who were not complying with officers’ commands to get out of the scene. According to the aunt, Mr. Jennings did briefly verbally interact with her. The aunt indicated that Mr. Jennings growled at her to go back to the house. Officers later expressed that during this incident the safety of this uncle and aunt became a concern because of their proximity to Mr. Jennings. One officer later expressed concern that it could have turned into a hostage situation.

As Mr. Jennings continued to move and pace, the officers eventually had to move from their position because of the lack of cover. During this time, another Ottawa Police Department patrol unit carrying two officers arrived. This unit was driven right up to where Mr. Jennings and the other officers were located. The patrol unit was then used as cover for the officers as they continued to verbally engage Mr. Jennings. Officers continued to tell Mr. Jennings that they just wanted to talk to him. The uncle and aunt were still trying to get near Mr. Jennings, and officers were also commanding them to get out of the way. All the while, as Mr. Jennings continued to pace, Mr. Jennings provided no audio response to the officers’ repeated commands, and continued to keep his left hand down by his waistband. At one point, Mr. Jennings moved away from the aunt and uncle and points at them with his right hand (not the left hand, which remained around the waistband).

The uncle and aunt of Mr. Jennings kept telling Mr. Jennings to stop. Understandably so, they were upset and emotional in their pleas to Mr. Jennings and the law enforcement officers. They were pleading with Mr. Jennings to listen to them and to the officers.

#### Officers use of less lethal and lethal force

An officer asked Mr. Jennings to calm down and asked him what is going on. Additional units continued to arrive at the scene. After receiving no response from Mr. Jennings, and Mr. Jennings demonstrating no willingness to comply with the clear commands of law enforcement, this officer instructed others to get the bean bag out of the car. Officers retrieved the bean bag shotgun and bean bag ammunition from the vehicle (which was the patrol unit driven closest to the location of the officers and Mr. Jennings).

An officer prepared the bean bag shotgun and bean bag ammunition, which is considered less lethal force. During this period of time, officers continued to command the husband and wife to

get out of the way. At one point, the husband got within arm's reach of Mr. Jennings while officers had their rifles trained on Mr. Jennings. While officers readied the bean bag, a deputy attempted to taze Mr. Jennings. It was unsuccessful because the tazer was deployed too far from Mr. Jennings. The deputy indicated that when he deployed the tazer, he did not believe he could have gotten safely closer.

During this period of time, officers were yelling out to each other "bean bag", "less lethal", and "bean bag". Also around this time, the aunt stated that if Mr. Jennings had a gun, then it's a bb gun.

An officer shouted bean bag. Someone shouted "put your gun down", but it is unclear who shouted it and to whom it was being shouted. As the officer readied the shotgun to shoot the beanbag, Mr. Jennings finally addressed officers. He shouted at the officers, "Don't bean bag me, mother\*\*\*\*\*)!"

The officer fired the shotgun and the bean bag struck Mr. Jennings in the right shoulder area. The bean bag appeared to have little or no effect on Mr. Jennings. Mr. Jennings appeared to "puff up". He did not comply with the officers' command to get on the ground. The officer fired a second bean bag and it too struck Mr. Jennings near the right hip. An additional deputy was approaching from the south of Princeton Street with a less lethal shotgun. The less lethal shot was fired by the deputy, but the round malfunctioned. Mr. Jennings was not struck by this bean bag because of the malfunction.

Very quickly after the second bean bag shot, Mr. Jennings began moving away from the officers while still facing them. He quickly and aggressively raised his left hand out of his waistband. He extended his arm out towards the officers who were positioned at or near the closest patrol vehicle. Mr. Jennings' action was consistent with someone drawing a handgun from their waistband. Mr. Jennings' arm was fully extended towards the officers located in cluster around the nearest patrol vehicle. **Each of officers, who were later interviewed individually, indicated that they saw what appeared to be a dark object in Mr. Jennings' left hand. Each of the officers who fired using lethal force indicated that it was their belief that it was a firearm. Each of the officers who fired indicated that it was their belief that they themselves, their fellow officers, the uncle and aunt, and/or members of the public located in the Orscheln parking lot were in danger of being shot by Mr. Jennings.**

Some non law enforcement witnesses were also present during the time of the shooting. One indicated that Mr. Jennings appeared angry and in distress. This witness indicated that she believed she observed Mr. Jennings lift his right hand from his side and extend his arm towards the officers. This witness indicated that it was her observation that Mr. Jennings had a light colored object in his hands, and she believed it to be a handgun. This witness indicated it was her belief that Mr. Jennings was going to shoot the female standing near the officers (the aunt). This

witness also indicated that she thought she had observed Mr. Jennings lower his hand down to his side momentarily before lifting it a second time. She indicated that she believed that once Mr. Jennings' right hand came up and forward the second time, she thought she heard a pop, which she believed to be a gunshot. She indicated that she believed she observed a puff of smoke come from his right hand, but indicated that she did not see any type of flash or flame from his hand.

Other non law enforcement witnesses also provided varying observations. One indicated that she could not tell for sure if Mr. Jennings was armed. She indicated that she assumed so because she thought that Mr. Jennings had fired first and that there was a pause of a few seconds between the first shot and the officers' shots. Another indicated that his view was obstructed by some of the farm equipment located on the Orscheln lot. This witness expressed his belief that four bean bag shots were fired prior to the officers using lethal force.

Audio recordings of the event help establish that the officers all began shooting at nearly the same time, and the officers ended their shooting at nearly the same time. The amount of time from start to finish was a matter of mere seconds. There was no single gunshot in isolation at the beginning of the shooting or at the end of the shooting. The shooting ended once Mr. Jennings was on the ground, and the officers perceived him as no longer a threat.

**Present during the time of the shooting were a total of ten officers. A total of five police officers, three city officers and two sheriff's deputies, fired at Mr. Jennings.** A total of 29 shell casings, two bean bags, three bean bag shells, and one tazer cartridge were recovered at the scene by the KBI crime processing scene. Mr. Jennings was struck approximately 8 to 9 times. Three officers and one deputy fired from the position of the closest patrol car. One deputy fired from a more southeast location from across Princeton Street. An autopsy performed indicated that Mr. Jennings cause of death was multiple gunshot wounds.

#### Officers Contact with Jennings after the use of force

After Mr. Jennings fell to the ground, some officers proceeded to Mr. Jennings while others went to homes across the street, which were potentially caught in the line of fire. An officer called for a medical ambulance while another started to render aid to the wounded Mr. Jennings.

Mr. Jennings was treated at the scene by an officer and then members of the Franklin County Ambulance Department. He was transferred to a local hospital, and Mr. Jennings died as a result of his injuries from the multiple gunshot wounds.

The Kansas Bureau of Investigation was contacted by the Ottawa Chief of Police and the Franklin County Sheriff to conduct an investigation. The Kansas Bureau of Investigation processed the scene of the shooting, interviewed several witnesses including all of the officers present and involved in the shooting, and interviewed several non law enforcement witnesses.

During the processing of the scene, KBI agents did not locate a handgun where Mr. Jennings' was shot and his body fell. They did locate a pair of black sunglasses (similar to the ones Mr. Jennings was observed leaving Wal-Mart with earlier that evening). The results of this indicate that Mr. Jennings was never armed with an actual handgun. Rather, this suggests that Mr. Jennings was likely holding a pair of black sunglasses that he held and quickly drew as one who was trying to point a handgun.

### **Kansas Law**

In Kansas, all persons including law enforcement officers are entitled to defend themselves and others against the use of unlawful force. The law provides that a person is justified in the use of force against an aggressor when and to the extent it appears to him and he reasonably believes that such conduct is necessary to defend himself or another against such aggressor's imminent use of unlawful force.

"Use of Force" includes words or actions directed at or upon another person or thing that reasonably convey the threat of force, the presentation or display of the means of force or the application of physical force, including by a weapon. "Use of deadly force" means the application of any physical force which is likely to cause death or great bodily harm to a person.

A law enforcement officer is justified in using force likely to cause death or great bodily harm only to the extent that it appears to him and he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another person, or when such officer reasonably believes that such force is necessary to prevent an arrest from being defeated by resistance of escape and such officer has probable cause to believe the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

The use of deadly force in defending a person is judged on a "case by case" basis. Only such force reasonably needed to defend another's imminent use of unlawful force will be legally permissible.

### **Conclusion**

The use of deadly force by the officers from the various agencies was lawful and justified. The totality of the facts gathered in the investigation of this case establishes that the actions of the officers were not criminal conduct under Kansas law. There is sufficient enough evidence to indicate that it was reasonable for the officers to believe that deadly force was necessary to protect oneself, other officers, and members of the public from death or great bodily harm. Although later investigation revealed that Mr. Jennings was not armed with a handgun, it was reasonable for officers to believe at the time of decision that he was armed with a handgun, it

was reasonable for officers to believe that he was going to use a handgun, and their split-second decision to use deadly force was reasonable under Kansas law based on a totality of the facts.

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