



# JANELLE P. KENDALL

## *Stearns County Attorney*

January 28, 2013

Special Agent C. Michael Phill, II  
Minnesota Bureau of Criminal Apprehension  
1430 Maryland Avenue East  
St. Paul, MN 55106

RE: Chad Michael Meemken  
Minnesota Bureau of Criminal Apprehension Case No. 2012-943

Dear Special Agent Phill:

I have reviewed the extensive investigation completed by your agency into the events of October 21, 2012, in which Stearns County Deputy Sheriff Chad Meemken shot and injured Marcus Michael Barshaw. The law enforcement reports, witness statements, medical reports, and physical evidence of the incident clearly show that Deputy Meemken was justified in the use of deadly force. Therefore, no criminal charges will be filed against Deputy Meemken.

On October 21, 2012, in the early morning hours, officers from the Stearns County Sheriff's Office and other agencies were dispatched to an address in the 300 block of Broadway Street East in the City of Rockville, Stearns County, for a reported shooting. Upon arrival, officers found the deceased body of Jeffery Jerome Schutz outside of the address. Witnesses told officers that Barshaw had shot Schutz numerous times and fled the scene in possession of one or more firearms.

The Stearns County Sheriff's Office, with the assistance of the Stearns/Benton Special Response Team (SRT) began a search of the immediate area for Barshaw. Several hours into the search, officers received a report of a man hiding in the laundry room of an apartment complex in the 300 block of Elm Street. Sgt. Steven Soyka, the SRT on-scene commander, mobilized the SRT members and directed them to the apartment building. As Sgt. Soyka went around to the front of the apartment building, other members of the SRT, including Deputy Meemken, took up positions in the rear of the building.

From his vantage point, Sgt. Soyka was able to observe Barshaw leaving a lower level laundry room. Sgt. Soyka was able to observe that Barshaw was armed with an AK-47 type rifle. Sgt. Soyka immediately began giving commands to Barshaw to drop his weapon. Sgt. Soyka made eye contact with Barshaw and then observed Barshaw turn away and head toward the exit at the rear of the building.

Sgt. Soyka immediately advised other members of the SRT that Barshaw was heading out the back door. Members of the SRT set up in the rear of the building observed the rear door begin to open. At this point, members of the SRT began yelling for Barshaw to show his hands. From his vantage point, Deputy Meemken observed Barshaw emerge from the rear door holding a firearm. Deputy Meemken then observed Barshaw make eye contact with him and at this point, Deputy Meemken observed Barshaw's arm holding the gun start to come up. Deputy Meemken then discharged his rifle approximately four times at Barshaw. Barshaw fell to the ground. Members of the SRT immediately secured Barshaw. Officers noted that at the time he exited the rear of the building Barshaw was armed with an AK-47 type rifle as well as a handgun. Officers began to provide immediate care to Barshaw, who was eventually transported to the St. Cloud Hospital for medical treatment. It was later determined that Barshaw had been struck in the chest and shoulder by rounds fired by Deputy Meemken. Barshaw was released from the hospital and remains in the Stearns County Jail on charges related to the death of Jeffrey Schutz.

It is undisputed that Deputy Meemken employed deadly force against Barshaw. Minn. Stat. § 609.066, subd. 1, states that the intentional discharge of a firearm in the direction of another person constitutes deadly force. However, licensed peace officers are authorized to use deadly force in certain circumstances pursuant to Minn. Stat. § 609.066, subd. 2, which provides, in pertinent part, as follows:

Subd. 2. Use of deadly force. Notwithstanding the provisions of 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary:

- (1) to protect the peace officer or another from apparent death or great bodily harm;
- (2) to affect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force;

Deputy Meemken is a licensed peace officer who as a member of the SRT was acting in the line of duty at the time he fired the shots that struck Barshaw. The only issue then is whether his use of deadly force was authorized. The facts and evidence at hand clearly demonstrate that it was. Deputy Meemken and the other members of the SRT were faced with an individual they knew or had reasonable grounds to believe had already shot and killed Jeffery Schutz and therefore had committed a felony involving the use of deadly force. Moreover, Barshaw's refusal to drop the weapon and his act of attempting to raise it towards Deputy Meemken made him a threat to Deputy Meemken and the other members of the SRT. As a result, Deputy Meemken's use of deadly force in this case was justified both to affect the capture of a person who had committed a felony utilizing deadly force and to protect himself and other members of the SRT from apparent death or great bodily harm.

It should be noted that on 11/15/12, Barshaw was indicted by a Stearns County Grand Jury for First Degree Murder in the death of Jeffrey Schutz and First Degree Assault for attempting to use deadly force against Deputy Meemken, amongst other charges. He remains in-custody pending trial in that matter.

It is always unfortunate when officers are forced to put their lives on the line and employ deadly force in the performance of their duties. However, the actions and decisions of Barshaw created the situation and led to this result. As Deputy Meemken was justified in using deadly force, no criminal charges will be filed against him in this matter. As a result, our file, as it relates to Deputy Meemken, will be closed. However, as prosecution against Barshaw continues, the contents of the file will remain a part of an active criminal investigation and are not available for public release.

Thank you for your detailed work in this investigation. If you have any questions or need additional information, don't hesitate to contact me at 320-656-3880.

Sincerely,



Michael J. Lieberg  
Chief – Criminal Division

MJL/pet

cc: Sheriff John Sanner  
Deputy Chad Meemken