

Commonwealth of Virginia

COUNTY OF FAIRFAX

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FAIRFAX, VIRGINIA 22030-4047

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REPORT ON JULY 7, 2022, OFFICER INVOLVED SHOOTING¹

On July 7, 2022, Fairfax County Police Department (“FCPD”) officers responded to the McLean home of Jasper Aaron Lynch (“Mr. Lynch”) after receiving calls that Mr. Lynch was having a mental health episode. FCPD dispatched three officers (Officers Pak, Kirsch, and George) to Mr. Lynch’s home. Shortly after initiating verbal communication with Mr. Lynch, Mr. Lynch attacked the officers. Officers Pak and Kirsch attempted to use tasers to subdue Mr. Lynch, but the tasers proved ineffective. After the tasers proved ineffective, a further struggle ensued, and Officer George fatally shot Mr. Lynch. My review of this incident leads me to conclude that none of the three officers, all of whom used some level of force, violated any criminal laws. I therefore decline to bring criminal charges against Officers Pak, Kirsch, or George.

On July 7, 2022, at 6:52 pm, FCPD received a 911 call for what the Department categorized as an “emotionally disturbed person.” The caller told the Dispatch operator (“Dispatch”) that the person they were calling about was Mr. Lynch. The caller reported that Mr. Lynch had a history of dissociation but was not acting violent towards anyone. The caller also informed Dispatch there were no concerns regarding weapons, drugs, or alcohol, but that Mr. Lynch was breaking things within the home, pacing, and showing signs of anxiety. The caller was a family friend and was on scene—Mr. Lynch's home in McLean—at the time of the call.

FCPD dispatched three officers to the scene: Officer Kirsch was dispatched at 6:59 pm; Officer Bass and a mental health clinician² were dispatched at 7:10 pm; and Officer George was dispatched at 7:13 pm. Dispatch communicated with Mr. Lynch’s mother at 7:22 pm, while units were still enroute to the address. Mr. Lynch’s mother informed Dispatch that Mr. Lynch’s sister would be arriving in Virginia from New York at approximately 8:30 pm. She further advised that Mr. Lynch had a history of mental illness.

¹ The Commonwealth’s Attorney’s Office is responsible for determining whether criminal charges are legally appropriate in Officer Involved Shootings. This report and all inferences made, legal standards used, and conclusions arrived at are limited to that question.

² The Fairfax County Co-Responder Program is a partnership between the Fairfax County Police Department and the Fairfax-Falls Church Community Services Board (CSB). It pairs a Crisis Intervention Team (CIT) trained police officer with a CSB Crisis Intervention Specialist to respond to public safety calls that are related to behavioral health issues. Officer Bass was assigned to the Fairfax County Police Department Co-Responder Unit on July 7, 2022.

Officer Kirsch, Officer Bass, and the mental health clinician arrived on scene at approximately 7:26 pm and met with the person who called FCPD on the front walkway of Mr. Lynch's home. She told the officers Mr. Lynch had thrown things in the home, though not at her. She also indicated she was not certain of Mr. Lynch's current location and that the last time she saw Mr. Lynch, he was tearing down wreaths from the front door. Officers Bass and Kirsch entered the home at approximately 7:27 pm to locate and speak with Mr. Lynch. Officer Kirsch searched the first floor and could not locate Mr. Lynch.

Officer George arrived on scene at 7:29 pm and Officer Kirsch asked him to canvass the neighborhood to locate Mr. Lynch. While Officer George was canvassing the neighborhood, Officer Bass received permission from Mr. Lynch's mother to search the remainder of the home. Mr. Lynch's mother advised there were no firearms or knives (other than kitchen knives) in the home. Officer Bass and the clinician searched the remainder of the home, including the garage and the exterior of the home, and were unable to locate Mr. Lynch. When the officers and clinician were unable to locate Mr. Lynch, they cleared the scene and departed. The call was closed at 8:00 pm.

Later that night, at 8:34 pm, FCPD received another "emotionally disturbed person" call regarding activity at Mr. Lynch's home. FCPD dispatched Officers Kirsch and George to return to the scene at 8:35 pm based upon the report that Mr. Lynch was having a mental breakdown and throwing objects. FCPD also dispatched Officer Pak to the scene. All three officers were CIT trained.³ Dispatch advised there were no weapons, alcohol, or drugs involved, and further advised of the history of mental health issues with anxiety and depression. Officers Pak and Kirsch arrived on scene at 8:45 pm and met with Mr. Lynch's sister ("Ms. Lynch") in the driveway of Mr. Lynch's home. Ms. Lynch informed the officers that while Mr. Lynch had never been formally diagnosed, the family believed he suffered from dissociative disorder. Ms. Lynch advised that Mr. Lynch was currently having a breakdown and had been breaking items and glass in the home. She told the officers Mr. Lynch had found out that a former girlfriend had died, and in the aftermath he had begun hallucinating. Before Ms. Lynch arrived at the house, she spoke with Mr. Lynch on the phone and during that conversation Mr. Lynch asked her to call 911. During that call, he sounded to Ms. Lynch as though he was then hallucinating. He told her he was scared and terrified, and there were people after him. He further told her there were people controlling his thoughts. Ms. Lynch believed he was experiencing a mental-health episode which she likened to schizophrenia. Ms. Lynch further told officers that when she arrived at the home, Mr. Lynch engaged in behaviors which suggested to her he was detached from reality and represented a danger to himself. Specifically, when Ms. Lynch entered the home, Mr. Lynch removed framed pictures from the upstairs hallway and threw them over the stairwell and asked her questions that were nonsensical. At that point, Ms. Lynch and her boyfriend left the home and called 911. She provided the officers with her opinion that Mr. Lynch should be taken to a hospital. Officers Pak and Kirsch asked if Ms. Lynch was willing to be a petitioner for an involuntary commitment

³ Although all three officers were CIT trained, none was assigned to the Co-Responder Unit and therefore none of the officers were accompanied by a CSB Crisis Intervention Specialist.

due to Mr. Lynch being a danger to himself, and she responded in the affirmative.

Officers Pak and Kirsch discussed with Ms. Lynch the possible options before them; Officer George arrived on scene at 8:48 pm, in the middle of the conversation. Officers Pak and Kirsch discussed with Ms. Lynch the possibility of seeking an involuntary commitment but made clear that success in gaining such a commitment was uncertain. Officer Pak told Ms. Lynch they could attempt to make contact with her brother to determine whether he would agree to voluntarily speak to a mental-health professional, but that making such contact created the possibility of something occurring which would require them to arrest Mr. Lynch. Ms. Lynch indicated she understood that the officers' presence at the scene was a last resort, but she was hopeful that Mr. Lynch would voluntarily cooperate with the officers because Mr. Lynch had asked her to call 911. As a result of the conversation, the three officers made their way towards the house.

At 8:52 pm, Officers Pak, Kirsch, and George entered the residence through the front door into the home's foyer. Body worn camera footage shows the foyer lights were off and the foyer was only somewhat illuminated by light from an adjoining room and the residual sunlight available at dusk. This lack of light led the officers to try to use handheld light to illuminate Mr. Lynch, but once he began attacking the officers, the handheld light was not able to track Mr. Lynch and keep him illuminated. At no time did Officer Pak, who entered the foyer first, ever get deeper than a few feet into the foyer. Officer Kirsch, who entered second, never entered even that deeply into the foyer and Officer George, who entered third, barely cleared the door's threshold. The three officers were relatively tightly packed into the foyer. An analysis by the FCPD crime-scene unit indicates that after Mr. Lynch appeared in the foyer, but before he charged the officers, he was approximately 16 feet from the officers. Body worn camera footage shows that the time between Officer Pak entering the foyer and all shots being fired was less than 35 seconds.

The entire interaction with Mr. Lynch inside the foyer was recorded on the three officers' body worn cameras. The officers entered into an empty foyer, but after verbally making their presence known, Mr. Lynch sprung into the foyer from an adjoining room. In his right hand, he was holding a burgundy wine bottle with the bottle's thick base pointed downward and he had a long wooden mask in his left hand which was raised above his shoulder. Before any officer could say anything more than "can you put that down?" Mr. Lynch smashed the mask into a table, resulting in a loud thud and the sound of glass breaking. In response, Officers Pak and Kirsch unholstered their tasers and Officer George unholstered his firearm, but none of the officers pointed their weapons at Mr. Lynch. The next few seconds see Mr. Lynch pacing back and forth while the officers instruct him to drop what is in his hands, telling him that he's "not in trouble," and reminding him that he asked for 911 to be called. Mr. Lynch then suddenly flipped the wine bottle's orientation in his hand so that he was holding it like a club and flung the mask at the officers. In response, Officer Pak deployed his taser to no avail. Meanwhile, Mr. Lynch yelled something indistinct and lunged towards Officers Kirsch and George while repeatedly chopping the bottle like a hatchet. Officer Kirsch deployed his taser, but it had no effect as Mr. Lynch lowered his shoulder and sprinted at Officer Kirsch. As Mr. Lynch sprinted at Officer Kirsch, Officer George fired four rounds which failed to stop Mr. Lynch's progress, resulting in Mr. Lynch slamming into Officer Kirsch, propelling both of

them backwards almost into the doorway.⁴ Mr. Lynch ended up on top of Officer Kirsch and while they struggled, Officer George fired once more, striking Mr. Lynch in the neck. Mr. Lynch jumped off Officer Kirsch and made his way through the doorway, but Officer Kirsch was able to grab him and pin him to the ground on the front doorstep. Officers Pak, Kirsch, and George then attempted to render aid to Mr. Lynch. While doing so, Mr. Lynch tried to bite and kick the officers. The officers' attempts to render aid were ultimately unsuccessful, and Mr. Lynch was pronounced dead at the scene.

Officer George told investigators he fired to protect himself and Officer Kirsch. Officer George stated that while Mr. Lynch was on top of Officer Kirsch, it appeared Officer Kirsch was losing the struggle. According to Officer George, he fired the fifth round because not only did Mr. Lynch have the upper hand in the struggle, but Officer George believed Mr. Lynch was still armed with the wine bottle and worried that a bottle of that heft could be used to deadly effect through bludgeoning or, if the bottle were to be broken during the struggle, via stabbing.

Although repeated viewing of the body worn video indicates Mr. Lynch dropped the bottle immediately before colliding with Officer Kirsch, it was not unreasonable for Officer George to believe Mr. Lynch still controlled the bottle while on top of Officer Kirsch: the situation escalated in a matter of seconds, Mr. Lynch was swinging the bottle above his head as he lunged in the direction of Officers Kirsch and George, the area of the foyer in which Mr. Lynch crashed into Officer Kirsch was the darkest area of the foyer, and Mr. Lynch dropped the bottle at the last second⁴ before he barreled into Officer Kirsch. In their statements, all of which the officers gave without viewing their body worn video, none of the three officers indicated they were aware that Mr. Lynch had dropped the bottle immediately before slamming into Officer Kirsch.

My investigation of this incident included a review of dispatch records, radio communications, reports from FCPD, interviews of the involved law enforcement officers, body worn camera video, and Mr. Lynch's autopsy. I also retained the services of an independent medical examiner and an independent use-of-force expert as part of this investigation.⁵ My investigation revealed that all the officers involved in this case acted in an objectively reasonable manner, based upon the totality of the circumstances. Specifically, when Officer Pak deployed his taser, he acted in an objectively reasonable manner. When Officer Kirsch deployed his taser after Officer Pak's taser did not produce the desired effect of immobilizing Mr. Lynch, he also acted in an objectively reasonable manner. Based upon my review of all the evidence in this case, I conclude that Officer George acted in an objectively reasonable manner, based upon the totality of the circumstances, when he discharged his firearm four times as Mr. Lynch advanced on the

⁴ The force of the collision caused Officer Kirsch's body worn camera to stop recording.

⁵ Although not dispositive, the independent use-of-force expert concluded that the officers' actions were objectively reasonable. It is important to note that the Commonwealth's Attorney's Office is the final arbiter of whether an officer acted in an objectively reasonable manner for purposes of seeking criminal charges. Different experts regularly reach opposing conclusions and simply relying on an expert's opinion would be an abdication of the duties vested in the Commonwealth's Attorney. The independent expert's opinion was simply another tool used to reach my conclusion.

officers in the foyer, after the tasers deployed by both Officers Pak and Kirsch were unsuccessful in immobilizing Mr. Lynch. I also conclude that Officer George acted in an objectively reasonable manner, based upon the totality of the circumstances, when he discharged his firearm a fifth time, while Mr. Lynch was on top of Officer Kirsch during a physical struggle. At the time Officer George discharged his firearm for the fifth time, it was objectively reasonable for Officer George to believe Mr. Lynch was still armed with the glass bottle in a position from which he could have bludgeoned Officer Kirsch and that Officer Kirsch was in danger of imminent serious bodily harm or death. I have determined Officer George reasonably believed Mr. Lynch intended to either kill him or the other officers on scene, or cause him or the other officers, serious bodily injury; and it was therefore legally permissible for Officer George to use the level of force he deployed. Accordingly, I find no violations of criminal law on the part of Officers George, Kirsch, and Pak and decline to bring any criminal charge against any of the officers.



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