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WINN PARISH, LOUISIANA

IN RE: TANISHA AMOS WHITE

THE FINAL REPORT OF THE CIRCUMSTANCES, THE INVESTIGATION AND
THE DETERMINATION OF CRIMINAL RESPONSIBILITY FOR THE OFFICER-
INVOLVED INJURY OF TANISHA AMOS WHITE ON NOVEMBER 5, 2018

REPORT ISSUED MARCH 28, 2019

THIS IS A PUBLIC DOCUMENT ISSUED ONLY AFTER THE
DETERMINATION BY THE DISTRICT ATTORNEY THAT A CRIMINAL
INVESTIGATION IS NO LONGER PENDING. THIS REPORT ONLY
IDENTIFIES THE INJURED PARTY AND THOSE OFFICERS WHOSE NAMES
HAVE BEEN PREVIOUSLY RELEASED BY THE AGENCIES INVOLVED.
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INTRODUCTION

Role of the District Attorney

Under the Louisiana Constitution, the District Attorney is designated as the Chief Prosecuting Officer in charge of every criminal prosecution in his district. He has the power to bring any state criminal charge and, correspondingly, the power to dismiss any state criminal charge. He is assisted in his efforts by the Grand Jury which also exercises independent constitutional authority. Louisiana law requires the District Attorney to bring to the Grand Jury all charges whenever the District Attorney determines he needs to seek a life or death sentence. However, in all other cases, the District Attorney retains the power to bring a state prosecution through a Bill of Information. In either situation, before the District Attorney may bring any charge he must legally determine that he has sufficient evidence to warrant a conviction by trial where the standard of proof will be "beyond a reasonable doubt." In doing so, the District Attorney is bound legally and ethically by certain standards. First, he must determine that, if a case is to be presented to a Grand Jury, that the evidence "if unexplained and uncontradicted, warrants a conviction." LA CCRP 443. Second, under the Rules of Professional Conduct required of all prosecutors (Rule 3.8), he is required to "refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause."

The role of the District Attorney in investigations such as that presented in the instant case is limited to determining whether a criminal violation of law has occurred, whether any living person may be held criminally responsible, and whether such criminal

responsibility can be proven beyond a reasonable doubt in a court of law. The District Attorney does not establish law enforcement agency policy, procedures and training requirements. The District Attorney does not have any responsibility for determining disciplinary action or pursuing civil litigation in these matters.

Factual Summary

On November 5, 2018, Winnfield Police Department Officer Justin Curry was dispatched to 508 North Pineville Street in Winnfield, Louisiana. Curry was notified that an unwanted person might be at the residence. He responded to the call and arrived sometime after 7:19 pm, when the call request for assistance came into the Winnfield Police Department. The area was dark and it had been raining most of the day.

Curry first encountered Tanisha Amos White at the residence where she shook hands, then hugged the officer. White advised Curry that she "needed a ride home." Curry asked White to wait until he could speak to other persons present at the residence about the nature of the call. Curry then met with a witness who was standing in the driveway. This witness told Curry that the witness' mother had told White to leave the residence. The witness tried to escort White from the premises but she would not leave. The witness further indicated that White had previously grabbed him by the collar and threatened him with a knife.

While the witness was describing to Curry what had happened prior to the officer's arrival, White began screaming and lunged towards the witness. Curry stepped between the witness and White, telling her that he was "trying to get you home." White overheard the witness ask that White be arrested to which she responded "you better not have me

arrested.” Curry advised White that she needed to stop yelling as he was trying to help her, but that she would be placed under arrest.

Curry then attempted to place White in handcuffs. White did not comply and instead swung at Curry with her left hand. In response, Curry used both hands to move White away from him, pushing her in the chest and causing her to twist and fall, chest first, on the concrete driveway. Curry then stepped backwards and drew a pepper spray gun from its belt holster. White rose to her feet and yelled at Curry stating he hit her in the eye or otherwise punched her in the face. White then advanced upon Curry a second time, at which point Curry fired a single burst of pepper spray towards her. Though it remains unclear why, White again fell backwards and again struck the driveway. She again rose and advanced a third time on Curry. He threw his pepper spray gun to the ground, grabbed White by the arm and took her to the ground in the grass to the left of the driveway. After placing her in handcuffs, Curry radioed for assistance.

In either the first or second fall, or a combination of both, White was seriously injured. She struck the concrete driveway with her head, resulting in multiple facial fractures and significant damage to her right eye which has still not resolved. White received medical treatment from emergency services at the scene, at the Winn Parish Medical Center, and later at the LSU Medical Center in Shreveport, Louisiana, where she was transported later that evening. White told the treating physician at the Winn Parish Medical Center that she had been pepper sprayed by Curry and fell, hitting her head on the concrete. The physician confirmed that her injuries were consistent with someone falling and striking their face on concrete.

Based upon the medical records, the statements of witnesses at the scene, photographs and diagrams of the scene, along with the statements of medical providers, the use of pepper spray, alone, was not the cause of the significant blunt force injury that White sustained.

Joint Louisiana State Police – FBI investigation

Following local protocols for officer-involved injuries, the Winnfield Police Department contacted the Louisiana State Police and requested that they investigate the incident. The FBI joined the investigation within a week of the request. The investigators contacted the District Attorney, who was updated and involved in every critical step in the investigation until its conclusion.

During the course of the investigation LSP/FBI interviewed Curry, all officers at the scene, all witnesses at the scene, a neighbor who might have had a working surveillance camera, EMS technicians, responding firefighters/EMTs from the Winnfield Fire Department, the treating nurse and physician at the Winn Parish Medical Center, and most-recently, Tanisha Amos White. They also contacted White's treating physician in Shreveport, but were unable to interview her as she was out on maternity leave.

In addition to witnesses, LSP/FBI obtained Curry's body camera which, after LSP analysis, contained no video of the event; his pepper spray gun, which showed upon inspection that it had been used once; two knives from White's person; medical and toxicology records; Winnfield Police Department training materials regarding use of force; Winnfield Police Department records of Curry's certification to use a pepper spray gun; a list of officers issued or otherwise certified to carry a TASER; photographs of the scene

and of White's injuries; a recording of the emergency calls; Curry's "Use of Force" report, along with all reports generated by the Winnfield Police Department related to the incident; Curry's training records; and White's criminal history.

STATEMENT OF LAW

Battery

A battery is defined as "the intentional use of force or violence upon the person of another." LA CCRP 33. There are different more serious grades of battery depending upon whether a battery is committed with a dangerous weapon (LA CCRP 34), or when the offender intentionally inflicts seriously bodily injury. LA CCRP 34.1

Justification

The fact that a person's conduct is justifiable, but otherwise criminal, is a defense to a prosecution for any crime based on that conduct. The defense of justification can be claimed under the following, but not exclusive, circumstances: (1) when the offender's conduct is an apparently authorized and reasonable fulfillment of any duties of public office; (2) when the offender's conduct is a reasonable accomplishment of an arrest which is lawful under the Code of Criminal Procedure; or (3) when for any reason the offender's conduct is authorized by law. LA CCRP 18.

Use of force or violence in defense

The use of force or violence upon the person of another is likewise justifiable when it is committed for the purpose of preventing a forcible offense against the person, provided that the force must be "reasonable and apparently necessary to prevent such offense." LA CCRP 19.

DISCUSSION

Issue presented for District Attorney

Whether any person may be held criminally responsible for the injuries sustained by Tanisha Amos White?

Application of Law

We are all legally required to avoid injuring others. When an injury occurs during a person's interaction with law enforcement, it must be taken seriously and thoroughly investigated. Where, as here, a truly significant injury occurs, law enforcement agencies are called to respond and investigate the circumstances of the injury and forward their reports to the District Attorney to determine whether any person is criminally responsible. Where law enforcement could be responsible for the injury they must immediately report it to the District Attorney who will join and assist them in all critical stages of the investigation. This is one of the most serious responsibilities of the District Attorney.

A battery is the intentional use of force or violence against the person of another. In this case, it all but established that Curry pushed White when she swung at him, that he pepper sprayed her, and that she fell to the ground thereafter. She struck her head on the concrete driveway at least once and probably twice. Neither is it disputed that White sustained serious head injuries, including to her right eye. The issue instead turns on whether Officer Curry's conduct was justifiable under the circumstances.

For a law enforcement officer, as with any other citizen, the law provides that the use of force must be reasonable. The United States Supreme Court specifically requires that the "reasonableness" of force by an officer be judged from the perspective of an officer

at the scene, rather than judged with the benefit of hindsight. *Graham v. Connor*, 490 U.S. 389 (1989).

Analysis


The evidence reviewed by the District Attorney previously referenced in this report substantiates that Tanisha Amos White was injured at the hands of another, specifically Winnfield Police Officer Justin Curry. This same evidence also demonstrates that her injuries were not due to the use of any weapon, but instead occurred when she struck her head on the concrete driveway. There is no evidence that Curry intended, knew, or should have known that by either pushing or pepper spraying White he would fall in such a manner that would cause her head injury.

White's agitated state and refusal to leave the residence prior to Curry's arrival, coupled with her refusal to be arrested once he arrived, required that Curry forcibly arrest her. Curry's actions were justified under the circumstances and no criminal responsibility can be found for him as he was lawfully attempting to arrest White and protecting himself during the course of the arrest.

CONCLUSION

In accordance with my oath and duty to uphold the constitution and laws of both the State of Louisiana and the State of Louisiana, as District Attorney for the 8th Judicial District, Parish of Winn, I issue this final report into the injuries sustained by Tanisha Amos White. White was injured by Winnfield Police Department officer Justin Curry in the course and scope of his employment as a police officer and under circumstances where his use of force was legally justified. It is my determination as District Attorney that there is

no probable cause of criminal responsibility to support the filing of a Bill of Information
or to present to a Grand Jury in the matter of the injuring of Tanisha Amos White.


R. CHRISTOPHER NEVILS
DATE: 3/28/19