

Sioux Falls Police Department Officer Involved Shooting Summary Detailing the Events That Took Place on 3/31/2022.

On April 1, 2022, the Sioux Falls Police Department requested the South Dakota Division of Criminal Investigation (DCI) investigate an officer involved shooting that occurred at 1900 West 6th Street in Sioux Falls, SD. The suspect, Cody Wade Kelly, was shot six (6) times by law enforcement after slashing at them with a knife. Kelley died as a result of the gunshots. The rounds were fired at Kelley by a Sioux Falls Police Officer. The following is a synopsis of the events that occurred on March 31, 2022, and the investigation that was conducted by the South Dakota DCI.

Synopsis

On March 31, 2022, at approximately 10:39 PM, the Sioux Falls Police Department received a phone call from an individual reporting their brother had just contacted them and told them he had slit his wrists and overdosed. The caller identified the subject as Cody Kelley who resides alone at an apartment located at 1900 West 6th Street in Sioux Falls, SD. The caller further advised that Kelly instructed them to plan his funeral, that he could not do it anymore, and that the "monster" was coming out. The caller reported that Kelley has access to knives.

Officers responded to the apartment and made verbal contact with Kelley outside the apartment door. Kelley refused to open the door for officers and warned them to evacuate the building because he had done something with the gas lines. Officers began to evacuate other tenants for safety while also continuing to speak with Kelley to de-escalate the situation. Officers continued verbal de-escalation tactics for over half an hour without success.

Kelley told officers he had feelings of harming other people as well as himself. He told officers to put a bullet in his head and that he would need a military funeral. Kelley notified the officers that he was struggling with "demons" and that he needed to end the cycle. He further told officers that he had been planning on killing himself for three years, had already harmed himself, and was not going to wake up in the morning. Kelly told officers he was going to "cut a vein".

At approximately 11:32 PM, officers made entry into the apartment and loudly announced "police". The officers were wearing Sioux Falls Police Department uniforms which include the Sioux Falls Police Department patch and badge clearly visible. Officers located Kelley in the small bathroom of the apartment and positioned themselves outside in the hallway. At that time, Kelley was observed holding a large, fixed-blade knife to his neck while yelling at officers to shoot him in the head. Kelley was observed with bleeding injuries to his arms that appeared to be self-inflicted. Officers gave loud verbal commands to Kelley to drop the knife, but he refused to do so.

A SFPD Officer (Officer #2) deployed two less lethal 40mm rounds at Kelley in an effort to get him to drop the knife. The first less lethal round struck the edge of the tub, missing Kelley. The second less lethal round was believed to have struck Kelley; however, it proved to be ineffective as Kelley was still holding the knife to his neck. Kelley was again given loud verbal commands to show his hands and give officers his hands. He did not comply with the officers' commands and stated, "It's going to end right here. Shoot me in the head."

Officers continued to give commands to Kelley to drop the knife, which he ignored. Another officer (Officer #3) attempted an additional less lethal deployment in the form of a TASER, in an effort to get Kelley to drop the knife. This deployment had some effect as it caused Kelly to drop

the knife temporarily. Officers observed this window of opportunity and grabbed onto Kelley's arms in an attempt to gain control and pull him away from the bathtub area which contained knives. Kelley began to physically resist officers by pulling away from them to the point the officers lost their grip. Due to the resistance, additional TASER exposures were conducted in an effort to gain control of Kelley. These efforts were found to be ineffective as Kelley was able to fight through these less lethal deployments.

Officers grabbed hold of Kelley and attempted to pull him away from the bathtub once again while giving loud verbal commands to "stop" multiple times. Kelley escalated his resistance and was actively swinging his arms at the officers. During this struggle, Kelley managed to reach into the bathtub where he retrieved and armed himself with a knife. As officers were attempting to gain control of Kelley in the small, confined area of the bathroom, Kelley continued swinging at officers and an officer (Officer #1) was struck in the leg resulting in a stab/slash injury. Simultaneously, another officer (Officer #3) lost their footing and ended up on the ground during the struggle to gain control of Kelley. Kelley continued to resist and loudly yelled at officers to put a bullet in his head. Officer #1, realizing they had been stabbed and noticed a colleague in a vulnerable position, observed Kelley holding a knife in his hand and loudly announced, "He's got a knife. He's got a knife."

At approximately 11:33 PM, Officer #1 drew their duty issued Glock handgun and fired multiple rounds at the knife wielding Kelley, striking him. Kelley dropped the knife and looked toward officers saying, "Thank you." Kelley was conscious but no longer physically resisting. Officers were able to remove Kelley from the bathroom and immediately began to render medical aid and call for EMS response. EMS arrived at the scene within minutes and ultimately transported Kelley to the hospital.

Life saving measures were attempted at the hospital; however, Kelley died as a result of the injuries.

Shooting Scene Investigation

The shooting scene investigation was conducted by DCI and items of evidence, including video of the event, confirmed officer statements.

A black and grey punch dagger knife with a skull pattern design was located in the bathtub. This is the knife Kelley was observed holding to his neck when officers first encountered him in the bathroom. This item was a fixed-blade knife with a blade length of approximately three (3") inches. Also located in the bathtub was a second knife. This knife was a kitchen style knife with a black handle and silver blade. It was a fixed-blade knife with a blade length of approximately eight (8") inches.

There were four additional knives located on the floor outside the bathtub.

- a black Karambit style knife with a fixed blade of approximately three (3") inches (at bathroom entrance)
- a kitchen style knife with a black handle and silver fixed-blade of approximately six (6") inches (near toilet/bathtub)
- a box cutter/utility style knife with an orange handle that is approximately six (6") inches in overall length (near toilet/bathtub)
- A double-edged black throwing knife with a skull/flames design with a fixed-blade length of approximately three (3") inches (near toilet/bathtub)

A crime scene forensic map was prepared by the South Dakota Highway Patrol under the direction and supervision of the DCI. The map is attached to this report along with photographs of the recovered knives.

Interview with SFPD Officer #1

On April 5, 2022, at approximately 1 PM, a DCI Special Agent conducted an interview with Officer #1 at the Sioux Falls DCI Office. Officer #1 stated they began their regularly scheduled shift on March 31, 2022, at 10 PM and was scheduled to end on April 1, 2022, at 8 AM. On this shift, Officer #1 was designated to serve as a training officer and was assigned to oversee a recruit officer. Officer #1 identified they were assigned to patrol the City of Sioux Falls in a patrol vehicle.

Officer #1 advised that while on patrol there was a psych/suicide call for service that was aired to officers through dispatch. The dispatch information relayed to officers indicated that the reporting party stated they received a phone call from their brother who told them he had cut his wrists and overdosed. Officer #1 advised the recruit officer called the reporting party while responding to the call to try to gain any additional information, but no new information was obtained.

Officer #1 advised that upon arriving to 1900 West 6th Street, officers positioned themselves in the hallway outside the apartment and made contact with Kelley. Officers were able to communicate verbally with Kelley through the closed door. The officers identified themselves and told Kelley he was not in trouble, and they were only checking to make sure he was okay. Officer #1 recalled Kelley telling responding officers they needed to evacuate the building for everybody's safety, as he had done something with the gas line. Kelley also told officers several times that he wanted to kill himself and planned to kill himself. Officer #1 noted that Kelley stated he was the victim of sexual assault as a child and wanted to kill himself so he would not hurt anyone else.

Officer #1 continued to speak with Kelley utilizing verbal de-escalation tactics; however, Kelley was not responsive to those efforts. Kelley told officers he had demons in his head and started the process of killing himself. Kelley told officers he was cutting his vein. Officer #1 noted officers made entry into the apartment, announcing their presence, and verbally identifying themselves as police. Officers located Kelley in the bathroom sitting in the bathtub holding a knife to his neck. Officer #1 recalled that Kelley began yelling at officers to shoot him. Kelley was given repeated commands to drop the knife, but he did not comply. Officer #1 noted there were several less lethal deployments attempted by other officers to gain compliance, but those were ineffective.

Officer #1 advised that following a TASER deployment by Officer #3, Kelley dropped the knife he had to his neck and officers grabbed Kelley to begin to pull him away from the area where knives were known to be located. Officer #1 recalled Kelley began to physically resist and it was difficult to maintain control of Kelley as he was very wet, bloody, and slippery. Officer #1 advised while attempting to pull Kelley from the bathtub area, they experienced a sudden strong, sharp pain, and burning sensation in one of their legs. Officer #1 advised they noticed Kelley was holding a knife in his left hand and realized the pain experienced was a result of being stabbed or slashed by Kelley. Officer #1 experienced having fears about their own well-being as well as the well-being of Officer #3 because they were in close proximity to Kelley in a very confined area while he was armed with the knife. Officer #1 advised they then fired their duty handgun multiple times at Kelley until it was perceived the threat was no longer present. Officer #1

thought they fired approximately eight (8) times but did not hear the sounds of gunfire at the time.

After the shooting, Officer #1 recalled Kelley slumped over, made eye contact with them, and said "thank you". Officer #1 then assisted other officers in moving Kelley to another area and immediately rendered medical aid.

Officer #1 sustained a cut/puncture laceration to their left leg. The injury is approximately 1 cm long and was located above the left knee.

Interview with SFPD Officer #3

On April 4, 2022, at approximately 4:00 PM, a DCI Special Agent conducted an interview with Officer #3 at the Sioux Falls DCI Office. Officer #3 stated they began their regularly scheduled shift on March 31, 2022, at 8 PM and was scheduled to end on April 1, 2022, at 6 AM. They identified that shortly after 11 PM, there was radio traffic of officers requesting breaching tools at 1900 West 6th Street. Officer #3 explained it is standard procedure for a supervisor to be on scene if forced entry is to be made, which prompted their response.

Officer #3 was provided updated information on the call for service and learned Kelley had made statements about breaking the gas line and told officers to evacuate the building. Officer #3 advised that Officer #1 was communicating through the door with Kelley attempting to de-escalate and negotiate a peaceful surrender. It was noted that Kelley refused to open the door to make contact with officers.

Officer #3 advised the officers present made entry into the apartment and attempted to locate Kelley. Officers located Kelley in a small bathroom. He was found sitting in the bathtub holding a knife to his neck. Officer #3 observed blood on Kelley's arm and noted the water in the bathtub appeared brown in color. They advised they did not know the types of injuries Kelley had sustained prior to contact with officers. Officer #3 advised there were two less lethal projectiles launched at Kelley by Officer #2 with no noticeable effect.

Officer #3 advised they deployed less lethal at Kelley in the form of a Taser, which had a temporary incapacitation effect. During this temporary incapacitation, officers attempted to handcuff Kelly; however, during this process, the Taser cycle ended, and Kelley was no longer incapacitated. Officer #3 advised Kelley immediately began fighting with officers, resisting their efforts to gain control of him. Officer #3 deployed the Taser for a second time in an attempt to incapacitate Kelley. This second deployment did not have the desired effect and Kelley was not fully incapacitated. Officer #3 attempted to handcuff Kelley again without success as Kelley continued to fight. A third Taser deployment was attempted but Kelley was able to fight through this Taser application. Officer #3 described that Kelley was in an active struggle with officers and they believed Kelley was going to come out of the tub. Officer #3 was concerned because it was known Kelley was armed with a knife and they believed Kelley was coming at them.

Officer #3 noted the Taser was no longer effective and that officers were in a physical struggle in close proximity with Kelley at the front of the bathtub. They advised Kelley forcefully pulled away from officers and freed himself. Officer #3 advised that due to the struggle, they fell onto the floor near the bathtub and was in a vulnerable position, unable to move. Officer #3 witnessed Kelley present a knife in his hand and was holding it in the air. Officer #3 began to yell at Kelley to stop, as they believed Kelley was going to go over the tub and stab them. Officer #3 described being absolutely terrified believing they were about to be stabbed in the neck or head area.

Officer #3 recalled hearing another officer yell “knife, knife” followed by multiple gunshots. They noted the gunshots were coming from the area above and to the left of their head and could feel the concussion as the firearm was discharged. After the shooting, Officer #3 recalled Kelley became calm, looked at the officers, and said “thank you”. This officer advised they were able to get up and move out of the bathroom while other officers immediately began lifesaving measures on Kelley.

Officer #3 sustained a cut to one of their fingers as well as scraping and bruising to areas of their legs. Officer #3 advised they firmly believed if Officer #1 had not fired at Kelley that they would have been badly hurt. Officer #3 noted that Officer #1’s actions stopped Kelley from being able to attack and stab them with a knife.

Witness Interviews

DCI Agents conducted interviews of witnesses in the area at the time of the incident, including officers and civilian bystanders. Sioux Falls Police Officers recalled witnessing Kelley holding a knife to his neck while bleeding from the arm and sitting in a bathtub of bloody water. The officers also described the bathroom as being a very confined area which limited how many officers could approach to try to control and handcuff Kelley. They further noted the ineffectiveness of the less lethal deployments and the physically resistive, aggressive response by Kelley. An officer recognized hearing an officer say “knife” in a high pitched, panicked voice followed by gunfire. They also observed Officer #3 having the look of terror on their face while frantically scrambling to quickly get out of the bathroom following the shooting.

Residents of the neighboring apartments were interviewed, and they reported hearing police speaking with Kelley. One neighbor noted there was a “negotiator” speaking with Kelley advising him “his life was worth living” and Kelley responding that it was too late and that he would not be waking up in the morning. The neighbor also heard the “negotiator” attempting to calm Kelley down by providing options to receive behavioral health services. This neighbor recalled hearing Kelley say he wanted to kill himself because the voices in his head were telling him to hurt other people. The neighbor further heard Kelley telling officers to evacuate the building because he did not want other people to get hurt. This neighbor was concerned about the safety of their family to the point they made preparations in the event that an evacuation was necessary.

Neighbors also recalled hearing officers enter Kelley’s apartment and announcing themselves as police. They reported hearing the sounds of a struggle followed by gunshots. Neighbors also described hearing the police providing first aid and life saving measures in the hallway including the robotic voice of an Automated External Defibrillator (AED).

Digital/Video Evidence

Digital evidence was reviewed in the forms of emergency communications recordings, officer worn body cameras, and Taser reports.

Emergency Communications Recordings

It was found that a 911 call was made and fielded by the Ida County Sheriff’s Office in Iowa on March 31, 2022, at 10:36 PM. The caller reported their brother was threatening to kill himself in Sioux Falls, SD. The caller was provided a contact number to report the information to the proper jurisdiction in Sioux Falls, SD. At approximately 10:39 PM, a caller notified Sioux Falls Metro Communications advising their brother had just contacted them and stated he had slit his wrists and overdosed. The caller identified their brother as Cody Kelley. This caller also stated

Kelley advised them to plan his funeral, that he could not do it anymore, and that the "monster" was coming out. The caller noted Kelley does have access to knives and there was a possibility that Kelley could become violent.

Officer Worn Body Cameras

Officer worn body cameras were reviewed during this investigation. The following was clearly observed through audio and video recordings. The first responding officers made contact with Kelley through the door at approximately 10:55 PM and attempted to deescalate for more than thirty (30) minutes. Kelley made several concerning comments, including advising officers to evacuate the building because he has the gas on in his room. Kelley further advised officers that he did not want others to get hurt, he had been planning on killing himself for three years, and that he was going to cut a vein. Kelley told officers he struggles with demons, to put a bullet in his head, and that he has feelings of harming others to the point that he wants to end his own life before he harms other people. Kelley also spoke of being molested as a child and that he was going to end the cycle.

At approximately 11:32 PM, officers entered the apartment and announced their presence. Officers located Kelley in the bathtub, and he could be clearly seen forcefully holding a knife against his neck with both hands while screaming at officers to shoot him in the head. Kelley was observed clearly bleeding from his arms. Officer #2 fired two less lethal impact rounds at Kelley to attempt to disarm him, but they were ineffective as Kelley did not drop the knife. Officers gave loud verbal commands for Kelley to drop the knife, show his hands, and give his hands to officers; but Kelley refused to comply and exclaimed, "It's going to end right here. Shoot me in the head." Officer #3 deployed a Taser which impacted Kelley and temporarily incapacitated him. Officers grabbed Kelley in an attempt to safely control and secure him in handcuffs. Kelley escalated by physically resisting the officers by pulling away and swinging his arms toward them. Officers are heard telling Kelley to stop multiple times and warn that he will be tasered once again. Additional Taser deployments were attempted but were found to be ineffective as Kelley continued to fight with officers and pulled away from them. Kelley was observed reaching into the tub and appeared to be searching for something.

Officer #1 and Officer #3 continued to struggle to control Kelley near the bathtub. Officer #1 appeared to be struck in the leg area and responded by screaming in pain and yelling, "He's got a knife. He's got a knife." At the same time, Officer #3 is observed falling to the floor near the tub and is in a vulnerable position. Kelley can be heard screaming, "Put a bullet in my fucking head." At approximately 11:33 PM, Officer #1 discharges his firearm at Kelley, striking him multiple times. There was a total of ten (10) shots observed and all are discharged in approximately 4 seconds.

Following the shooting, officers were observed relaying radio traffic immediately requesting EMS. Officers were observed providing emergency medical aid to Kelley until EMS arrived at approximately 11:36 PM to take over medical care and transport to a hospital.

Taser Reports

The report from the Taser utilized by Officer #3 was reviewed. This report confirms there were several Taser deployments that coincide with the timeline of the body camera footage and Officer #3's statements.

Firearm Examinations

Officer #1 fired their duty issued Glock Model 17 9mm handgun ten (10) times. The firearm is carried loaded with a total of eighteen (18) rounds including seventeen (17) rounds in the

magazine and one (1) round in the chamber. After the shooting, there were eight (8) rounds that remained.

The South Dakota Forensic Laboratory conducted testing on Officer #1's firearm. They concluded that all ten (10) shell casings found at the scene matched the duty weapon.

Medical Reports and Subject History

Drug and alcohol tests were conducted on Officer #1. All test results were negative for any drugs or alcohol.

An autopsy was performed on Cody Kelley. It was confirmed that he was shot six (6) times. All six (6) projectiles were recovered from his body. The autopsy report notes two (2) gunshot wounds to the left chest, a gunshot wound to the left posterior shoulder, a gunshot wound to the left back, a gunshot wound to the left hand with reentry to the chest and right elbow, and a gunshot to the left arm with reentry to the left chest. In addition to the gunshot wounds, the autopsy report noted multiple sharp incised wounds to Kelley on his neck, face, and arms. Toxicology results showed Kelley was positive for Amphetamine and Methamphetamine at a toxic level.

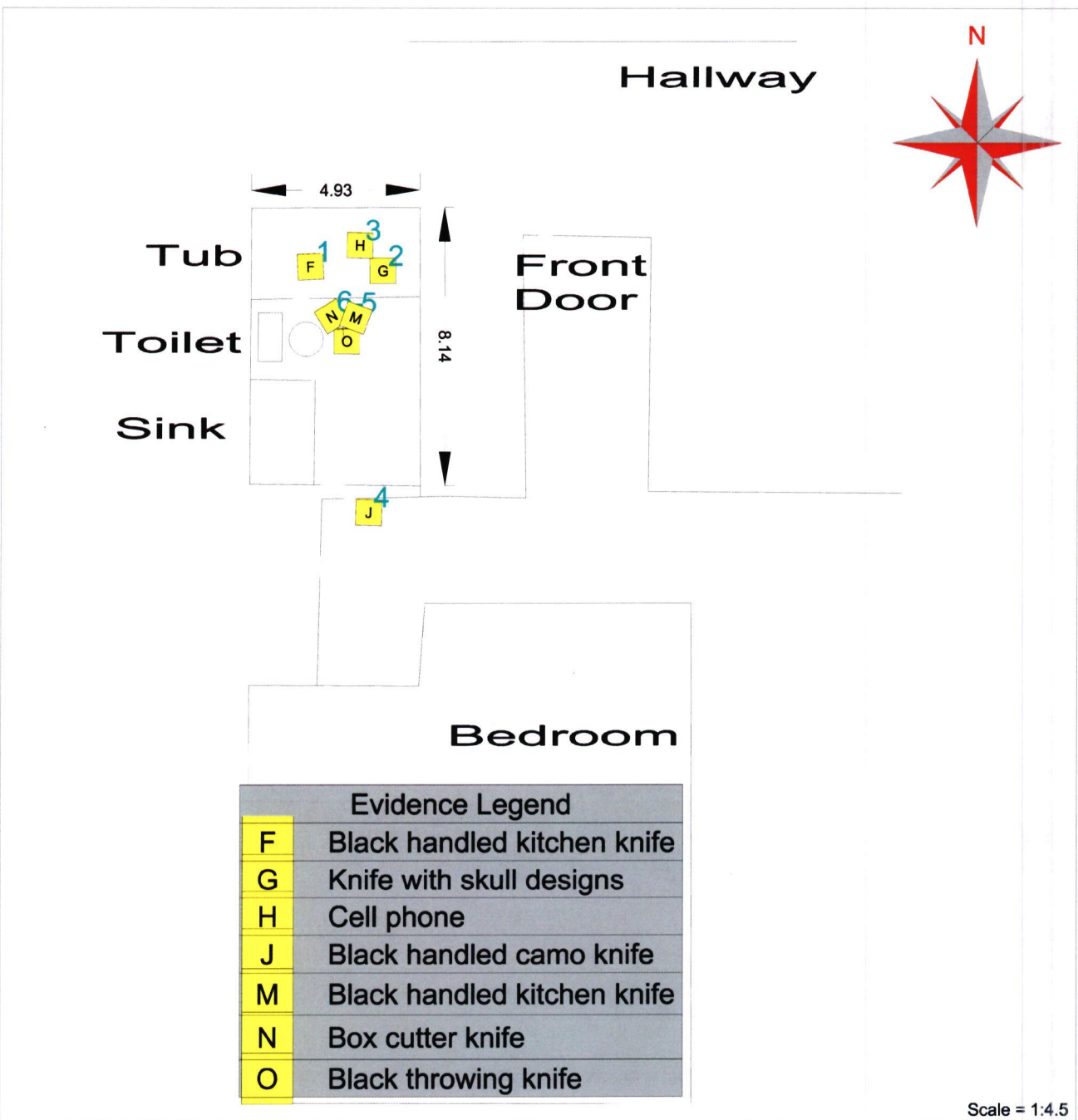
A criminal history review on Cody Wade Kelley was conducted and showed he had previous arrests for theft and DUI. It was also discovered he was the subject of an active investigation for possession of child pornography. Through familial interviews, it was determined that Kelley had a history of substance abuse and struggles with mental illness, including at least one prior suicide attempt.

Investigation Results

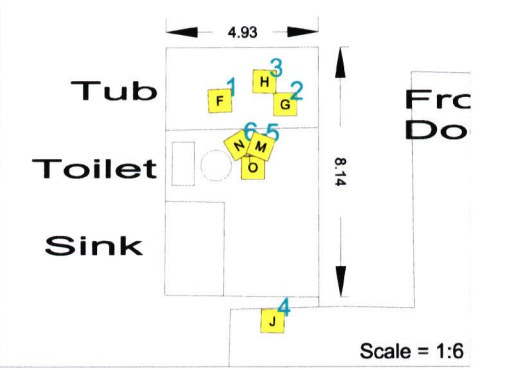
Based on the totality of the circumstances, a reasonable officer present at the scene utilized deadly force in a situation that was tense, uncertain, and rapidly evolving. Cody Wade Kelley had the means and opportunity to use deadly force and was a clear and present danger to law enforcement on scene. The investigation revealed that at the time officers made contact with Kelley, he was armed with a knife. The responding officers deployed less lethal options which were ineffective. Kelley physically resisted and was actively attacking officers with a knife at the time the officer utilized deadly force.

It is the conclusion of this report and the South Dakota Chief Deputy Attorney General that Officer #1 was justified in firing their weapon and using lethal force.

The DCI crime scene investigation, evidence collection, witness statements, and review of the video, are consistent with statements received from law enforcement present at the time the events unfolded.



Scale = 1:4.5



Date of Occurrence:	March 31, 2022
Event:	Sioux Falls Police Department OIS
Location:	1900 W 6th Avenue Apt 303
City or Area:	Sioux Falls, SD
Investigating Agency:	South Dakota Division of Criminal Investigation
File Number:	20220793
Mapped By:	Trooper Jeremy Gacke
Date Mapped:	April 1, 2022





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KNIVES LOCATED INSIDE THE BATHTUB



KNIVES LOCATED OUTSIDE OF THE BATHTUB

