

## Mitchell Police Department Shooting Summary detailing events that took place on November 08, 2014

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On Saturday, November 08, 2014, the Mitchell Police Department requested that the South Dakota Division of Criminal Investigation (SD DCI) investigate an officer involved shooting that occurred at the Quality Inn and Suites, 1221 South Burr Street, Mitchell, SD.

The shooting resulted in the subject, Joy Ann Sherman, DOB 10-13-1962, being shot three times by Sgt. David Beintema. Sherman was transported to the Queen of Peace Hospital and then to Avera McKennen Hospital in Sioux Falls, where she died from her injuries on 11-10-2014.

The following is a synopsis of the events that occurred on 11-08-2014 and the investigation that was conducted by the SD DCI.

### Synopsis

On 11-08-2014, at 4:56 pm, the Mitchell 911 Communication Center received a 911 call from a counselor at Stepping Stone in Mitchell, SD. Stepping Stone is a residential treatment facility for drug and alcohol abuse. The caller reported that former resident, Joy Ann Sherman, was calling Stepping Stone and talking to another counselor. Sherman was at the Quality Inn and Suites in Mitchell, SD and had a gun. It was reported that Sherman was intoxicated and threatening to hurt herself and anyone else. Stepping Stone reported that Sherman told them she had a 9mm handgun, it was loaded and she had stolen it from a Mitchell residence. The Stepping Stone Counselor tried to talk Sherman out of hurting herself or others.

Mitchell Police Department verified the information regarding the stolen handgun. In addition, the 911 Dispatch Center was able to confirm that Sherman was in room 132 of the Quality Inn and Suites. MPD Officers and Mitchell Fire Emergency Medical Services (EMS) were dispatched to Sherman's location.

Sherman told a Stepping Stone Counselor she had the gun to her head, but she could not pull the trigger. Sherman stated she wanted to hurt herself or other people and was exhausted of the life she was living. The Mitchell 911 Communication Center relayed this information to the officers on scene.

At 5:02pm, Sgt. Beintema and Officers Hartley and Larson arrived at the Quality Inn and Suites. At 5:05 pm, EMS arrived in the area. At 5:06 pm, Officer Marler arrived on scene and at 5:18 pm, Davison County Deputy Moke arrived on scene.

During this time, Sgt. Beintema, ordered the evacuation of the rooms adjoining Sherman's and had his officers set up a perimeter. Officer Hartley was stationed at the north side of the hotel, outside of Sherman's room. Officer Hartley informed Sgt. Beintema that he could see into the room and verified that Sherman had a black handgun.

Sgt. Beintema was able to make contact with Sherman on the telephone twice for a total of approximately 15 minutes, with Sherman terminating both calls. During their conversations

Sherman said more than once that she wanted to shoot herself and would be willing to shoot anybody else. Sherman told Sgt. Beintema that she had a stolen 9mm handgun and had been drinking whiskey. Sgt. Beintema tried to convince Sherman to put the gun down and come out of the room, but she refused.

At 5:37 pm, Sgt. Beintema, requested the activation of the Mitchell Police Department Emergency Response Unit (ERU). At 5:42 pm, a negotiator was requested. By 5:50 pm, all the adjoining hotel rooms were visually verified to be evacuated. At 6:08 pm, members of the Mitchell Police Department ERU responded to the Quality Inn and Suites.

A Mitchell Police Department Negotiator was positioned in the hallway around the corner to the east from Sherman's room. Sgt. Beintema was positioned across the hall in room 129, covering Sherman's room, 132. Sgt. Beintema took this position to contain the area. ERU Members, Officer Larson and Certified Law Enforcement Firefighter and Tactical Medic Parker were in the hallway west of Sherman's room.

While staged in the hallway, Mitchell PD Negotiator attempted a number of times to call and yell into Sherman's room and speak with her. Sherman responded by saying she was on the phone with her counselor. Sgt. Beintema along with other Police personnel could hear Sherman saying something, but could not discern what it was through the door.

At 6:23 pm, the Stepping Stone Counselor told the Mitchell 911 Center that they just got off the phone with Sherman who said she still has the gun, she is cutting herself and she can see the police officers. The counselor said that Sherman just laughed and said she is exhausted with her life and was too old to change.

At 6:30 pm, Sgt. Beintema noticed the doorknob to Sherman's room start to move. Sherman opened the door to her hotel room. Sgt. Beintema yelled "door, door, door" to alert the other officers. Sherman opened the door about 12 inches and stuck her head out and looked at Sgt. Beintema. Sgt. Beintema said that Sherman made eye contact with him.

Sgt. Beintema yelled at Sherman multiple times "show me your hands, show me your hands!" Sherman said nothing and just looked at him.

At that point, Sherman opened the door and positioned herself in the doorway in full view of Sgt. Beintema. During this time, Sherman brought the handgun up and pointed it at Sgt. Beintema. Sgt. Beintema, who had his duty weapon unholstered, pointed it at Sherman and shot her three times.

Sgt. Beintema said that he shot Sherman because she pointed a handgun at him. He said that when she pointed the gun at him, he feared for his life and thought she was going to shoot him. Sgt. Beintema said he reacted to Sherman pointing a gun at him.

After he fired his weapon three times, Sgt. Beintema saw Sherman fall to the floor inside the doorway in her room. As the door to the hotel room began to close, Sgt. Beintema entered the room, followed by ERU Members Officer Larson and Firefighter Parker. Immediately as the ERU members enter the room, they handcuffed Sherman and Firefighter Parker began lifesaving measures.

A black 9mm Hi-point handgun was found in the room, next to Sherman on the floor. It was later determined that the gun had seven rounds in the magazine. There was not a round in the chamber.

At 6:31 pm, the EMS unit that had been on stand-by in the hotel parking lot responded to Sherman's room. In addition, Queen of Peace Hospital was notified of the situation. The EMS crew continued life saving measures. Sherman was transported to the Queen of Peace Hospital.

At 6:47 pm, the ambulance crew arrived at the Queen of Peace Hospital.

Sherman received life saving measures within seconds, was transported by ambulance to the Queen of Peace Hospital within minutes and soon after, flown to Avera McKennan Hospital in Sioux Falls by air ambulance.

After the incident, Sgt. Beintema was contacted by DCI Investigators. At the time of the incident he was wearing his MPD issued uniform. His duty weapon and magazines were secured, documented and inventoried. The inventory showed his Glock .40 cal model 22 handgun contained one round in the chamber and 12 rounds in the magazine seated in the handgun.

This model of handgun is designed to carry 15 rounds in each magazine with an additional round in the chamber, for a total of 16 rounds available without reloading. Sgt. Beintema confirmed that he carries his duty weapon in this configuration.

This would account for the three rounds fired during the incident. An alcohol screen conducted on Sgt. Beintema showed no alcohol in his system. The drug screen was negative.

In addition, blood samples from Sherman were obtained by Queen of Peace Hospital, subsequent to the execution of a search warrant. The blood alcohol content was .313% determined from a blood draw taken at 7:29 pm by Queen of Peace Hospital.

#### **Crime Scene and Witness Interviews:**

During interviews with the other officers present, it was discovered that because of the staging of the other Officers and the positioning of Sherman inside of her room, there were no other witnesses to Sherman pointing the handgun at Sgt. Beintema. Prior to Sherman pointing the handgun at Sgt. Beintma, another Officer was able to verify Sherman with a handgun in her room. Several other Officers present heard Sgt. Beintema's commands to Sherman, including "door door door" and the commands to Sherman to show Sgt. Beintema her hands. During the crime scene processing, the handgun Sherman pointed at Sgt. Beintema was documented and recovered in Sherman's room.

Sgt. Beintema was the only officer to use deadly force and a total of three (3) .40 cal rounds were fired by him.

At the time of the shooting, Sgt. Beintema was approximately 7 ½ feet away from Sherman when Sherman pointed a handgun at him.

Two of the rounds passed through Sherman and were lodged in the wall directly behind where she was standing, which was in line with Sgt. Beintema's position. These rounds were recovered during the scene examination. The third round was recovered from Sherman during her autopsy.

Sherman made numerous statements to both law enforcement and her counselor about wanting to shoot herself and others. In addition, she told her counselor that she was struggling to pull the trigger to shoot herself.

Sherman was found to be in possession of a stolen 9mm handgun. In addition, a witness, other than law enforcement, that was employed by the Quality Inn and Suites had observed Sherman with the stolen handgun earlier in the day, on Saturday 11-08-2014.

The South Dakota Forensic Laboratory confirmed in firearms testing, that the spent cartridges found at the scene came from Sgt. Beintema's handgun and the recovered bullets were consistent with the type and manufacturer of the spent cartridges.

#### **Final Autopsy Results and Criminal History**

On 11-11-2014, an autopsy was performed on Sherman, at Sanford Hospital, by Forensic Pathologist Dr. Kenneth Snell. Sherman was shot three times. One gunshot wound to the right leg, one gunshot wound to the chest, and one gunshot wound to the abdomen. Sherman died from gunshot wounds of the chest and abdomen.

A criminal history check was conducted on Sherman. The criminal history showed arrests in South Dakota for fraud, DUI, burglary, attempted burglary, refusing to leave, fugitive from justice, and disorderly conduct. In Colorado she was arrested for false reporting, simple assault, failure to appear, assault, and disturbing the peace. In Kansas, Sherman was arrested for domestic battery three times. In Nebraska, Sherman was arrested for larceny (felony) and in Iowa, Sherman was arrested for simple assault domestic, twice. The criminal charges appear to be a mixture of misdemeanors and felonies.

Between October of 2004 and November of 2013 the Sioux Fall Police Department had contact with Sherman on 8 occasions in which Sherman had made threats of harming herself, sustained injuries by cutting herself, or attempted suicide by jumping off a bridge onto ice.

#### **Investigation Results**

It is the conclusion of this report and the Attorney General, that Sgt. Beintema was justified in firing his weapon and using lethal force.

The crime scene investigation conducted by the SD DCI is consistent with statements received from Sgt. Beintema, other law enforcement officers who were on scene, witness statements and the Mitchell 911 Dispatcher Center logs and audio recording.