OFFICE OF THE
WOODBURY COUNTY ATTORNEY
May 10, 2007

REPORT OF THE INVESTIGATION AND COUNTY ATTORNEY'S FINDINGS AND CONCLUSIONS REGARDING THE SHOOTING DEATH OF ELLIS PARKER ON OCTOBER 4, 2006

PATRICK (PJ) JENNINGS
WOODBURY COUNTY ATTORNEY

TABLE OF CONTENTS

INTRODUCTION.....1

BACKGROUND.....2

CIVILIAN WITNESSES.....2

FIRE PERSONNEL.....6

POLICE OFFICERS.....11

AUTOPSY.....16

BALLISTICS.....18

CAUSE OF FIRE.....18

LEGAL PRINCIPLES.....18

ANALYSIS.....19

CONCLUSION.....20

PHOTO OF KNIFE.....21

INTRODUCTION

On October 4, 2006, shortly after 1:00 p.m., the Sioux City Police Department along with the Sioux City Fire Department responded to a 911 call of a fire to a residence. The location of the fire was 4101 Gordon Drive, Lot 221, Sioux City, Iowa. Neighbor Sandra Padilla was the first person to notice the fire. Ms. Padilla sought help from her neighbors to call 911. Upon running to a first and then a second residence she was able to get Edward Dawdy to phone 911 for help.

Arriving first on the scene of the fire were police officers James Clark and Randy Suggitt. Both officers were in full uniform driving marked patrol cars. As they approached the location of the fire, smoke was seen coming from the trailer. The two officers also noticed that an 'unknown male'[1] was inside the residence and that he (Parker) was carrying a large knife that appeared to be taped to his hand. Parker breaks and then jumps out the front window which faces the street to the south.

Parker then jumps out the window causing officers Clark and Suggitt to immediately back away due to the fact that Parker still has the large knife in his right hand. Parker is in a crouched position, displays a menacing demeanor and he is pointing the knife towards the officers. The officers are yelling at Parker to drop the knife. They both make repeated requests for him to drop the knife. Both officers have drawn their weapons at this point and continue to yell commands for Parker to drop the large knife that he is carrying. The officers recognize white tape laced around Parker's hands and believe that he has the knife taped to his hand. Parker ignores their commands to drop the knife. Parker begins to advance towards the officers refusing to obey their commands to drop the knife. The officers try to retreat in order to keep a safe distance between themselves and the advancing Parker. Parker then begins to advance towards Officer Clark who continues to yell commands for him to stop and to put down the knife. Fearing for his safety, Officer Clark fires three shots from his revolver striking Parker.

Although he is wounded, Parker does not go to the ground and does not release the knife that he is carrying. He stumbles somewhat but manages to run from the officers towards the back of the trailer houses. Other officers begin to arrive including, Ken Welch, Sgt. Mike Conley and Lt. Mick Lefler. After initially trying to flee the area, Parker emerges from the rear of the trailers and again confronts these officers still displaying the large knife in his hand. These officers continually yell commands for Parker to drop the knife. When Parker begins to advance on these officers they retreat trying to keep a safe distance. Parker advances towards Officer Welch who fires one round from his 223 rifle striking Parker. The single shot does not take Parker down nor does he drop the large knife that he is carrying and pointing towards the officers in a threatening manner. Instead, Parker again advances towards these officers with the knife causing a barrage of shots to be fired that ultimately results in his death.

---

[1] Hereinafter Ellis Parker will be referred to by name although his true identity was not actually known until after the events of this day had occurred.

A police car video-audio system captures the later shots fired by Welch, Conley and Lefler. Several witnesses including police, fire personnel and civilians were present and interviewed following the shooting of Parker. After a thorough review of all the facts and evidence, the Woodbury County Attorney's office has concluded that the shooting of Ellis Parker was lawful and that his ultimate death was justifiable homicide.

BACKGROUND

Ellis Allen Parker was a 30 year old African American male of biracial heritage. He had recently moved to Sioux City from Des Moines, Iowa. At the time of his death, he was residing with his mother, Margaret Garcia, at the residence of 4101 Gordon Drive, Lot 221. Ellis Parker was unemployed at the time of this incident.

Ms. Garcia had left the residence at approximately 1:00 p.m., prior to this incident occurring. No other individuals resided in the home nor were found to be inside the home as evidenced by a search of the residence subsequent to the shooting.

A criminal history check for Mr. Parker revealed that on or about July 22, 2006, he was discharged from the prison system after being convicted of Fail to Register as a Sex Offender and Assault on a Peace Officer. There were no pending charges for Mr. Parker in Woodbury County, Iowa on the date of this incident.

CIVILIAN WITNESSES

Sandra Padilla[2] (interpretor used)

Sandra was the first person to recognize the trailer fire and attempted to contact 911 via the neighbors. Sandra states that after she was able to get a neighbor, Edward Dawdy, to phone 911, she sees Parker with the knife standing in the window. She does not know Parker. Parker breaks the window then confronts the officers. Sandra states, "he was standing by the…by the window and when he broke the...the glass he had a knife in his hand and he was like a (unintelligible) kinda prepare for something like…(unintelligible) approaching".

Sandra goes inside a friend's trailer after she sees Parker confronting the officers but she tries to watch what is going on through the window. However, she visually misses the actual shootings because she backs away from the window out of fear. She hears the officers yelling things to Parker and thinks she hears 3 gunshots. Says concerning those shots, "after I hear those (unintelligible) shotguns…I was back to the window…(unintelligible) continue with the knife in his hand". "And then the police continue talking to him…". "He…was trying to (unintelligible) …against the police", "That's when we…we…hear the next (unintelligible) shotgun". States when asked if she was looking out the window during the later round of shots, "When the black male pulled

[2] Quotes for all witnesses, regardless of classification, are taken from transcribed witness interviews.

his knife from the top like that…(unintelligible) against the officer, that's when I…he…she moved from the window because she was scared".

Edward Dawdy

Ed describes his involvement in this incident by stating that a Hispanic lady comes to his door requesting that he call the police. After confirming that it wasn't a prank he does make the 911 call. He says that two police officers arrive and he is walking behind them as they approach the trailer fire. Ed then states "And I think…they mighta thought the same thing I did. I thought it was the heat (unintelligible) inside…you know, making the glasses blow…and…by that time here was this guy all covered with blood leaning out the window waving this knife and…" Ed describes the knife being similar to a machete in size

Ed states that Parker comes out the window and starts heading towards the police officers. The officers are telling him to drop the knife. Ed describes Parker's pace of movement towards the officers as "It was more than just a walk". He says the police officers yelled "loud and clear" several times for Parker to drop his knife. At this point, Ed says that he runs back to his trailer out of fear and that prior to entering into his residence does hear shots fired. He does not see anymore of the incidents but does recall hearing more gunshots later on.

Preston Dezeeuw

Preston arrived in the trailer court approximately 1:10-1:15 in the afternoon on the date of this incident. He was present to retrieve a two-wheel trailer owned by his brother-in-law. Preston states that he does see the smoke coming from the trailer and sees the two police officers responding to the scene. Says that as the officers were going up to the trailer with the fire that the "window come busting out". "And I seen this individual come out of the window with a…with a knife". Preston says that the officers did not have their guns drawn when they first approached the fire. In response to a question asking him if he was watching the trailer after the window is broken out, Preston says "Yeah, I was kind of amazed, you know. The window come busting out and then when I seen the…the smoke coming out and…and…and the hand come out with the knife, I went wow". "He was…he was just standing there and…and, you know, with the knife and then the officers at that time drew their weapons and go drop the knife…"

Preston states that he sees blood coming down the front of Parker's chest after he falls from the window. He says, "…his arm came through and then he come down and…and he (unintelligible)…he…he busted himself through the window and he come out like this and then he kind of got like this back up and come (unintelligible) …And…and…and it looked like the knife was taped to his wrist or the arm or something…". Preston states Parker was holding the knife so that the blade was pointing out. He describes the knife as probably 10-12 inches long. Preston also says that there appeared to be white tape around both of his hands although he only sees one knife.

Preston makes the statement, "And…and…and they yelled again drop the knife. And he just didn't pay any attention to 'em. He just looked like he was in another world". Preston thought it appeared as if Parker was on drugs. Preston then describes the scene of Parker trying to run from the two officers who were the first to arrive on scene, they chase after him and at some point shortly thereafter, Parker is back in the street in front of the trailer with the fire. That the officers have repeatedly yelled for Parker to drop the knife. Preston then says, "…this officer here started yelling at him again drop the knife, drop the knife and he turned around and…and…and…and faced him like he was gonna come towards him". "I mean he looked…he actually started walking towards him. That's when the two or three shots were fired at that time". Further trying to explain the situation prior to the first shots being fired, Preston states "I mean he…he makes about four or five steps towards the officer". "And that's when the shots were fired, you know…And he would not listen to the orders whatsoever".

Preston states that after the three shots are fired Parker starts running and he gets scared and gets back into his truck which is parked nearby. He notices that the fire department has arrived and that Parker has run in between the burning trailer and that more officers have arrived as well. Preston is inside his truck but continues to try to observe what is happening.

Preston says that the additional officers are yelling at Parker, "all this time they're yelling drop the g--, uh, knife, drop the knife. Please, drop the knife. I…I even heard please, drop the knife". Thinking to himself, Preston voices his thoughts at that time "You know. You know, and I thought well these guys got patience like there's no tomorrow, you know. You know, you don't know what's in this trailer here, you know, if he's hurt somebody, you know, or killed somebody or what, you know. You don't know. They…they…they got the patience of (unintelligible)…I was…I was really impressed. (unintelligible)…the first time in my life say for Sioux City officers, I was impressed and that…that comes from the bottom of my heart".

Preston describes the scene as the officers continuing to exercise patience. Parker continues to go back and forth between the trailers. That he has not heard Parker say anything this whole time. He loses sight of Parker and from this point forward can only hear what is being said and what sounds to be happening.

Preston states that he hears the officers continuing to yell for Parker to drop the knife, that it seems as though Parker had "all the opportunities in the world" to give up. That shortly after that is when he heard additional shots being fired but that he doesn't actually witness these shots.

Chris Dunlap

Chris is doing in-home health care for Betty Biederman, Lot #219, which is right across the street from where this incident took place. She states that the first thing she is aware of Betty tells her that there's a fire in the trailer across the street. Then she hears what she describes as "bang-bang". Chris states that she then goes outside to see what is

happening and sees Parker holding a knife. That at this point, there are five to seven police officers with their guns drawn at him. That these officers "kept screaming at him to drop his weapon, drop your knife". Chris guesses that she heard these officers yelling the command to drop the knife fifteen (15) to twenty (20) times. Chris states that after she had seen this, she went back inside the trailer. She further explains "And I think he was jumping around (unintelligible) 'cause they kept saying, you know, watch out this way, watch out that way".

Chris says that she does not recall hearing Parker say anything during this incident. That when she first saw Parker that he was "just kind a going like this, waving it at 'em", referring to Parker waving the knife at the officers. The officers continued to yell at Parker to drop his weapon.

Chris describes the final scene that she witnessed while peeking out the window of the trailer this way, "Window open. And, um…then he started, he was (unintelligible) quite a few times, and standing over here. Um…then finally, he started coming out, and I'm thinking oh, shit, you know. But we keep our head a little lower. And…he started coming at officers and they kept telling him to drop it and he wouldn't and…I don't know why but like at that moment, I looked at the…tipped my head back 'cause then I heard seven or eight shots". Chris says that she looked away from the window because "Something was gonna go down. Something was gonna happen…because he was getting closer to 'em and closer to 'em and I didn't want to get shot at". When Chris looked out the window next Parker was down.

Kathryn Robison

Kathryn is the daughter of Betty Beiderman and she goes by the name Katie. She was present in Betty's trailer on the date of this incident. She also describes hearing a "pop-pop" noise which sounded like gunshots. She describes seeing the fire to the trailer and that she also sees Parker standing outside. She states that Chris Dunlap runs outside to see what is going on but then runs back into the house and says there are police outside. At this point she and Chris begin to lock the doors to the residence. She and Chris are trying to look out the window to see what is going on and they open up the window so that they can hear.

Katie says that she can hear the officers saying put down your weapon. She also sees something in Parker's hand but can't tell what it is only that it appears to be at least seven to eight inches in length. She can also see that this guy has something either wrapped around this object or wrapped around his hand. She states at some point the officers were "maybe six, seven feet away from him" when describing the distance between the officers and Parker.

Katie states that after the officers surround Parker in the street, that she hears two shots fired. She believes that these shots are fired into the air. She states that when this happens, "the guy kind of flinched, you could see him kind of jump-like. And he still kept the, the object in his hands and they told him, they said put it down". She says that

Parker was walking towards the officers with the weapon in this hand and that they were backing up. She describes that at this point Parker was more that halfway across the street towards the officers before they fired more shots.

Griselda Gutrerrez (interpretor used)

Griselda resides across the street from this incident and was present in the home with her three children. Griselda had a hard time explaining what occurred due to nervousness and the fact that she was still scared from the events that took place. However, she does describe seeing Parker come out the window, that he has blood on his body and that he had a knife in his hand. Although she does not speak English she believes based on the officer's hand signals and sounds that they were trying to tell him to put the knife down. She describes Parker's demeanor by saying "It looked like he was angry or was scared".

Griselda further states "I don't know…I don't know if he was trying to run over the officers. I don't know". She continues later, "I don't know…I don't know, like he was…I don't know. He had the knife like kind of…he was scared…kind of (unintelligible) that he was real crazy, loco". She does describe hearing a first round of shots and then a later second round of shots and that is when she also speaks of Parker coming towards the officers, stating "He was trying to run over the person…over the officers…over the officers". Griselda and the kids then move away from the window.

Elizabeth Rosas

Elizabeth is the daughter of Griselda. She states that she saw Parker with the knife in his right hand. Parker had on shorts with no shirt. Elizabeth says that Parker had the knife out in front of him with the blade extended out away from his body. She describes seeing two police officers and they had their guns out pointed towards Parker. She explains that after Parker started coming towards the officers they shot him. She further states after Parker is shot, he goes around the side of the trailer, that more police officers arrive, and that eventually Parker comes after the other officers causing more shots to be fired.

FIRE PERSONNEL

The fire department was dispatched to the location of the fire at approximately 1:14 p.m. They parked approximately 50-60 feet away from the scene of the shooting.

Ryan Dykstra

Ryan is riding in Engine #3 which is the first fire unit to arrive at the scene. Ryan says the station received an alarm right after the lunch hour had ended and that the call came in as a 'trailer fire'. While en route, they were notified that police were already on scene. Once they arrived to the location, the two police officers were visible with their guns drawn. Moments later Parker comes into view and is seen displaying a "pretty good size knife".

Ryan states, "he got…uh…I would say within probably thirty feet of 'em and he had stopped and you could see they were having a few words…the officers were motioning for him to get down…uh…at that time he made a…I guess a lunge toward the officers. He got I would say within about ten, fifteen feet and that's when we heard three shots go off". Ryan describes that Parker jumped around somewhat, and ran out of view behind the trailers. Ryan says that they could see blood on Parker's chest prior to the shooting. Parker would come into view, go back out of view on several occasions. More officers then arrived after the first shots were fired.

Ryan describes that the last time Parker came out from between the trailers Parker had gotten just as close to the officers as he had the first time shots were fired. "…it looked like he was trying to pick which one he was gonna go at", explained Ryan of what was occurring prior to the last round of shots being fired. "He kinda came toward the ones toward the east and that's when they open fire on him". Ryan makes an additional observation by stating, "…I hate to say suicide by cop but…".

After Parker had gone down, EMS was immediately called in and Ryan and his crew began their duties to fight the fire.

Ryan says that he could not make out what the officers were actually saying only that he could hear them and that the officers were making hand motions towards Parker. That he could see some type of gauze wrapped around Parker's hand. Ryan comments again that "the first time they shot him is when he got within about ten or fifteen feet", "…and he was…he was coming at 'em". He goes on to explain that the officers would back off as Parker tried to advance on them.

Frank Fulton

Fulton was the driver of the Engine #3. When he arrives to what he thinks is a fire, he sees two police officers with guns drawn. A bit later he sees Parker come into view carrying a knife. Frank states "Umm, he kinda had it I believe down to his side and then he walked towards the police officers. He held it high. He was kinda acting like he was gonna lunge at 'em. He was still, you know 15, 20 feet away. At one point, umm, when they did…when I witnessed 'em shoot him the first time, I think there was three shots is what I remember…" Frank continues, "…umm, he lunged at 'em. He might have been maybe ten feet from 'em from…from what I could see".

He recalls hearing three shots during this initial round of shooting. He says that he could not make out what was being said from the other sirens going off and the fact that his truck was still running. Frank further describes the actions of Parker after the first three shots are fired, "…he just kinda felt like he got bumped back a little bit and then he started to actually walk towards them. He didn't lunge or rush at 'em but he started to walk towards them with the knife, umm, and just continue to walk towards them and they kept backing up. I could hear 'em yelling but I don't know what they were saying…". At this point, Frank says that Parker then backs up and goes out of his vision.

Frank says that more officers arrive on scene and that Parker is ultimately shot again. He responds that he thought Parker was going to stab the officer, and makes the following statement "especially after he…they shoot him and he kept going after 'em. I…I was surprised they didn't shoot again more right away". Frank describes the officers' action as "…I guess I thought that, uh, they tried as hard as they could" in his opinion of the officers trying to get Parker to stop and put down the knife.

Robert Keairns

Robert was sitting in the passenger seat of Engine #3 with a clear view of the shooting. He states that upon arriving to the scene the two officers have their guns drawn but Parker can not be seen at that time. After a few seconds Parker appears and is carrying the large knife in his hand. He also sees that Parker has blood on his chest. He states that Parker was making aggressive actions with the knife towards the officers and that Parker got to probably within twelve to fifteen feet of the officers when he was shot the first time. He recalls hearing three shots.

He states that he could not hear the words that the officers were saying to Parker but it appeared as though they were yelling commands to him. Roberts says in response to the second round of shooting, "And then he came at the entire group of 'em and that's when I heard one shot, and I don't know how many of (unintelligible)…there were several shots". "And that's when he finally went down" says Robert.

Robert says that Parker again probably got to within fifteen feet of the officers before he was shot the second time and that he was swinging the knife around at them prior to the shots being fired.

Mark Roth

Mark was the driver for Engine #6 and riding along with him were Ricky Ohl and Larry Whitwer. The first three shots had already occurred prior to them arriving. He first sees three to four officers with the guns pointed outward. He could not hear what they were saying but could see by their body language and the movements of the officer's mouths that they were communicating in some fashion. Initially he could not see Parker until he comes from between the trailers. When Parker emerges he has the knife in his hand, "I saw him with the knife and basically he came out and moved towards the officers and at that time the officers did move back".

In describing what Parker seemed to be doing with the knife, Mark made this characterization, "Oh, it was, uh, uh, I…I'd say he was, uh, he wanted to inflict…inflict pain or do whatever…". Mark says that Parker got as close as ten to twelve feet of the officers while displaying this knife in a threatening manner. He says that Parker would disappear behind the trailers and then re-emerge again.

In describing Parker's actions immediately prior to the final shots being fired, Mark states "and...and actually he started circling where he...he was moving in erractic motions still waving at the police officers". Mark further states, "and waving the knife and then...and then he actually went towards them...quickly towards them. Didn't actually run at full blast but he started to really go towards them". Mark states that Parker never tried to lay the knife down.

Larry Whitwer

Larry exited his fire engine and walked up to where Engine #3 was parked. He does not see Parker initially but then sees Parker come from behind the trailer carrying a "pretty good size knife". He hears the officers yelling commands to Parker but Parker ignores those commands and keeps coming towards the officers. He thinks that he hears maybe two shots at that point, he then recalls Parker jumping around and cussing at the officers and then Larry says "he just took off after 'em and that's when I heard several shots and then he dropped".

He says that Parker was holding the knife out and seemed to be circling around in front of the officers waving the knife "Like he was gonna take off after 'em". He says Parker made this action prior to the first shots that he heard being fired. After that was when Parker started jumping around and cussing and then Larry states, "...then all of a sudden he just took off after (unintelligible)". "Uh...and then he just took off running after 'em and then there was a bunch of shots and he went down" says Larry.

Ricky Ohl

As they arrive it was known that shots had been fired and that Parker had a knife. Ohl states that as he is preparing with his gear when he hears shots fired. He states, "And that's when I looked up and I saw him just like hopping toward 'em with a knife, and that's when the...the shots rang out and he went...he fell to the ground".

He says when they first get there they did not see Parker but did see the officers with their guns drawn. Rick doesn't have much input into the situation other than his response to the situation after they were given the go ahead to enter the scene.

Dennis Culbertson

Dennis is in Truck #3 along with Matt Divis and Michael Wyant who was the driver. When they arrive, Dennis says that he sees two officers with their guns drawn and Parker with the large knife. He does not hear or see Parker actually get shot the first time. He says that he could not hear what the officers were saying but guesses they were trying to get Parker to put the knife down. He says that Parker then disappears behind the trailers and that more officers are arriving. According to Dennis, "The third time he came out there was several officers kind of lined up across...uh...the street from his trailer...from where he was standing...uh...he...made like a charge at 'em as far as I could tell he started coming at 'em with the knife and then he slowed down, I thought he was gonna

put down, then he made one last kinda lunge...uh...they fired on him..." In regards to whether Parker might have been on illegal drugs, Dennis further states "Well that's...that would be my...yeah...guess would be...uh...'cause he...like I said even after he shot he kept charging towards 'em".

Dennis states that Parker got within ten to twelve feet of the officers when they shot him. That the officers had backed off of Parker several times prior to shooting trying to maintain a distance he thought. He also says that Parker didn't seem to have any intentions of putting the knife down. Parker was the aggressor in this incident.

Michael Wyant

Michael is the driver of Truck #3. He says that when they first arrive that he sees Parker who is not wearing a shirt. He says that he doesn't really know what's going on but then he hears a couple shots fired. Michael says that Parker disappears behind the trailers and eventually comes back out. When Parker does come back out he confronts the officers with the knife still in his hand. Michael makes the statement that "...I see him lunge toward him and then I hear the shots".

He says that in his opinion Parker was on the attack prior to both sets of shots being fired. He says that Parker was not running but that he was moving towards the officers. In guessing how close Parker got to the officers with the knife before shots were fired, Michael guesses that it would have been about five feet.

Matt Divis

Matt is also located on Truck #3. He confirms that he does not see what happens with the first round of shots. He talks about seeing Parker go behind the trailers and after a while he does see Parker come back out and confront the officers. Matt states "...well he ducked behind the trailer where we couldn't see him for awhile and then towards the end he came out and seemed like he was kinda coming toward the officers and that's when they fired..."

Capt. Gordon Wilson

Gordon (Tim) is the Captain riding in Truck #1. He states that initially Parker could not be seen but later appears from behind the trailer and at that time has the knife in his hand. This was after he had received word that shots had been fired. Gordon states, "all of a sudden makes a...a lunge at the officers and that's when the shots were fired". In guessing as to how close Parker got to the officers before the shots were fired he states "probably six or eight feet at that point in time when he made a lunge". He also characterized Parker as being the aggressor.

Gordon says that Parker was moving "at a really quick pace" at the time that he was confronting the officers. Parker was holding this knife out in front of him pointed towards the officers. Gordon states, "...I was kinda surprised that if they were gonna be

a confrontational shooting, they hadn't shot by that time". He mentions that Parker momentarily stops, that the officers are having a conversation with him and that Parker seemed pretty aggravated. Gordon then says "He was pretty pumped up and all of a sudden he lunged at him and that's when the shooting started…"

Jason Davis

Jason was aboard Truck #1. He makes the statement concerning Parker's advancement towards the officers that "…he didn't seem like he had any intention of slowing down". He recalls that Parker in his opinion might have been shot once in the arm and made a noise of some sort. After that, he says ""But then he came forward more…with more aggression after the first initial shot…"

POLICE OFFICERS

James Clark[3]

James received the dispatch call of house fire in Regency Trailer Court. He arrived to the scene just as Officer Suggitt was arriving. He could immediately smell the smoke. As they approached the fire, heard and then saw Parker banging on window and that window did break with Parker then jumping out the window. Parker is already covered in blood prior to jumping from the window. Parker has the knife in his hand at this time. In referring to Parker, Clarks states "he takes a defensive posture with this big knife in his hand and we immediately start giving commands…hey drop the knife".

Clark says that he and Suggitt try to separate and that Parker starts to walk towards Suggitt, then back towards himself, and that Parker does this back and forth. While Parker was moving towards the officers he has the knife up and that they continue to order him to drop the knife. Clark says that he and Suggitt are backing up as Parker continues walk towards them with the knife. Clark explains, "He walks towards me a little bit further and I was basically backed up as far as I could". "…he just kept coming towards me and I told him repeatedly drop the knife, drop the knife, drop the knife, and he wouldn't do it. And at that point, I mean I had my gun on him the whole time and he just kept coming, kept coming, kept coming and I shot three rounds at him…"

Clark says that Parker never said anything during this sequence of events until after he was shot and that his only word at that point was the F word. That even after he was shot, Parker never did put down the knife but instead took off running behind the trailers. He at that point gets on the radio to message shots had been fired and requested medics to come. It was at this point that Clark also turns his patrol video equipment on which does record the second round of shots being fired. He says that other officers begin to arrive and together the officers seek out Parker in between and behind the trailers. He sees Parker take a position by a tree located in between two of the trailers and was basically

[3] Officer James Clark and Officer Randy Suggitt were the only two officers present during the initial three shots fired by Clark.

just standing there. Officers were continuing to repeat the commands to drop the knife that medical personnel were there to provide him with treatment. He mentions that he thought he heard someone trying to talk to Parker in Spanish but wasn't sure who or what was being said. Parker would not give a response of any kind. He states that smoke is continuing to fill this area causing problems keeping sight of Parker. Parker begins to move back out towards the officers.

Clark says that there was one point when Parker appears to begin to take the tape off his hand which Clark for a second thought Parker would drop the knife and give up. "He just kind of reached for it and then just stopped and then…and then he kinda gets this second wind where…I mean you just see him…see him take a deep breath and he's back down in the defensive posture where he's just…he's down here like this…his knees are bent and basically the same thing he did to me…" explains Clark comparing the incident to what happened prior to the first shots being fired.

Clark says that all of the officers are yelling commands for Parker to drop the knife. That Sgt. Conley was asking what his name was and if anyone else was inside the house. That Parker continued to approach the officers with the knife in his hand and that when Parker got to about the middle of the road that Officer Welch fired his rifle striking Parker. He says that other officers also fired their weapons after the rifle was fired. Clark says that he knew it was the rifle by the sound that the shot made. Clark says that he was a little farther back from the other officers during this second round of shots fired so he did not fire his weapon.

Randy Suggitt

Suggitt says that Officer Clark got the call to a trailer fire and that he was in the area so he decided to assist on the call. Upon arriving at the trailer, smoke could be seen coming from the residence. As he and Clark were approaching the trailer with the fire they heard glass breaking and that Parker could be seen breaking out the window in the front of the trailer. Thinking Parker was only trying to get some air he began to approach closer until he notices Parker with the large knife in his hand. Suggitt backs up at after seeing the knife and what appeared to be tape holding the knife to Parker's hand. Suggitt says he can see tape on Parker's left hand as well but that the knife is taped to his right hand. Suggitt says that Parker jumps from the window still holding the knife. Suggitt states, "…when he jumps down then he's kinda crouched in kind of a … a menacing demeanor". Suggitt says that he is already yelling for Parker to drop the knife even before he jumps from the window and continues to yell this command after Parker hits the ground. He says that he had his weapon drawn on Parker since the time he first sees the knife.

Suggitt says that he and Clark kind of separate from each other making somewhat of a "V" shape between them and Parker. Parker begins to approach the officers, towards himself and then Clark and back and forth. Suggitt says that the whole time they are giving commands to drop the knife and that Parker is not responding. Suggitt says that he and Clark are trying to keep distance between themselves and Parker and that he

actually somewhat positions himself behind a car. Parker continues to approach Clark and that is when the first shots are fired by Clark. Suggitt states that at the time of the shots Parker was within ten feet of Clark, that Parker was "advancing fairly quickly, wasn't runnin' ".

After what he believed were three shots that were fired, Parker backs off. Parker retreats between and behind the trailers and other officers start to arrive. States Suggitt, "He just seemed real agitated, just uh...like he's paranoid..." Suggitt makes the comments that he's seen the behavior displayed by Parker today as similar to the behavior displayed by people who use drugs or that may have a mental problem. Suggitt says that Parker never gave any verbal responses to their commands to drop the knife other than to gesture by shaking his head to indicate 'no'.

Suggitt says that he was not among the group of officers that fired their weapons during the second round of shots that he was off to the side. He says that Parker was advancing on the officers and that he got to within twelve feet of the officers prior to the second round of shots being fired. He makes mention that prior to those shots being fired someone, possibly Lt. Lefler, asked about having a stun gun and that he had replaced his revolver with his stun gun. However, as Parker continued to advance on the officers, he put away his stun gun replacing it with his revolver and once again has his weapon drawn towards Parker. No shots were fired from Suggitt's weapon during this entire incident. He says had it not been for the possibility of cross-fire and the neighbor's trailer being in his line of fire, he might have fired his weapon as well during this second round of shots.

Ken Welch

Welch is in the process of finishing lunch and is in the area of 6th and Lewis Blvd. when he hears traffic of 'shots fired'. He goes Code 3 from there to the scene of this incident. He then hears more traffic of 'guys got a knife taped to his hand, not putting the knife down'. At this point he parks his vehicle and retrieves his AR 223 rifle and heads towards the scene. When he gets to the actual scene of the fire, Parker is in between the trailers and the officers are yelling for him to put the knife down.

Welch asks the group whether or not Parker is contained and has an understanding that Sgt. McBride has gone around the back of the adjoining trailer. He states that eventually Parker comes from between the trailers and is moving towards the officers. He says that he was trying to hang back and that all of the officers were backing up due to Parker moving towards the officers. Welch states, "Eventually kind of all moved back cause he moved forward...we all kinda moved back...got to where we were basically...then at the far curb line, umm, he was into the street so...uncomfortably close to us".

Welch states that Parker never did put down the knife. He explains, "...then there came a point where any (unintelligible) the knife, took a defensive posture which indicated to me that he was ready to charge". He says that Parker was acting completely irrational. He fired his first shot at that point. Welch says that Parker stumbles somewhat, again makes

an aggressive posture, advances on the officers and he again fired more shots. He says that other officers fire their weapons at this time as well.

Welch recalls that prior to him firing his first shot officer Van Beest tried to communicate with Parker in Spanish.[4] He says that prior to firing, there was one point where Parker was advancing and he thought that he was going to have to shoot but he raised his voice at Parker and motioned with his hand to put the knife down just in case Parker did not understand English.

Sgt. Jim Conley

Conley initially hears traffic about the trailer fire and then hears Suggitt radio that shots had been fired and he responds Code 3 to the trailer park. He approaches the scene and sees Parker in between the trailers, that there are bandages on his hands and Parker is bleeding. Jim states, "So we spent the next five minutes or so yelling he's got to put the knife down". He sees McBride go around back of the trailer. He says that he recalls Parker only saying two words the whole time and that it was either ' I won't or I can't', he doesn't remember which it was. Conley asks if anyone has a taser and that he thinks Suggitt says he does have one.

Conley, referring to Parker's actions at this time, states "And he got out in the street and he made some kind of motion to the south, which is where Welch was standing, and I heard a loud bang". Conley says that this shot only made Parker mad. Conley says, "He started yelling...he charged and we...I opened up". Conley affirms that Parker directed his attention towards Welch and states that "he moved towards Welch. He made some kind of motion for (unintelligible) Ken fired one round". Conley further explains that after Parker was hit with the first shot from the AR that Parker "went ballistic and come charging" and "that's when all hell broke loose". He doesn't recall how many rounds he fired at the time of his interview.

Lt. Mick Lefler

Lefler is in the police station when he hears the fire call. He then hears that someone has a knife but doesn't get involved until he hears the call that shots had been fired. He heads Code 3 to the scene of this incident in the process notifying Captain Williams of the situation. When he arrives he sees the trailer fully engulfed in flames and that officers are backing up into the street. He then sees Parker with the knife taped to his hand approaching the officers and the officers were trying to back away to keep a safe distance. He recalls asking if someone has a Taser and that officer Van Beest responds affirmatively.

Lefler tells Van Beest to stay with him with the intentions of trying to get a taser shot. He says about Parker, "the suspect looked at us and yelled no and started running towards us". He says one shot was fired at that time. He states that Parker kept coming at him and that he did fire his weapon and that Parker fell in the street close to his position.

[4] Was not able to confirm this type of communication.

Lefler says that he was unware that Parker had already be shot and hit prior to the second round of shots being fired. He did see the blood on Parker and thought that maybe Parker had just cut himself. Lefler says that Parker seemed to be on some type of drug. That he would not respond to the commands to put the knife down. He states, referring to Parker, "Uh, he had a look to him like he was, uh, out of control".

Sgt. Phil McBride

McBride states that when he arrives to the scene Parker is running out at the officers with the knife. That Parker would back up and then move back towards the officers and that he would do this several times. He states that he goes around back of the trailer to possibly get a taser shot on Parker or to try to contain him in order to secure the area. Later in his interview explaining why he had not attempted to use his taser, McBride states, "I had the taser out…uh…and I was gonna do that but then as he came at me…I thought no this ain't gonna do me any good". He states that Parker advanced on him and that he did have his gun drawn on Parker but that he was at a distance "where I was comfortable but if I had to shot him I could have".

He says that Parker places his attention back on the officers in the street and that he started to move towards these officers. The officers continued to yell at Parker to put down the knife. McBride says that he hears the shots and that he sees Parker still moving towards the officers after the shots had started. He states, "...it was like he was in another world".

Mike Van Beest

Van Beest arrived to the scene while Parker was in between the two trailers. He sees that Parker has the knife raised in this right hand and that officers are yelling for him to drop the knife. At this point he is under the impression that Parker has already been shot. Lt. Lefler arrives after he does and is asking if anyone has a taser to which Van Beest answers in the affirmative. He does holster his gun and pulled out his taser. He says that he begins to approach Parker with the intent of trying to get off a taser shot and with Lefler following him as cover.

Van Beest states, "And we started moving up toward…towards the suspect and that's when he started you know, really going uh…at the officers that were in front of him, and that's when the shots ring out". He continues, "I mean as soon as I got my taser out and we were moving up (unintelligible) and soon as we're moving up, that's when he made the aggressive moves towards the officers". He says that he still has his taser out during this shooting and also makes the statement that he was never close enough to use his taser.

Kraig Fulton

Fulton says that he was completing a report in the Mercy parking lot when he heard radio mention the fire call. Shortly thereafter is when he heard that there was a guy with a

knife and that shots had been fired. He went Code 3 to the scene. Upon arriving, he gets his taser out due to his knowledge that all the other officers have guns. Fulton makes the comment upon seeing Parker with the knife, "All I could see was that big silver blade out there". Fulton compares Parker's actions to a "tiger in a cage" referring to how Parker is pacing back and forth, with an aggressive attitude. Fulton comments, "...he's got that look on his face like nobody's home".

When he hears that McBride is alone in the back of the trailers, he pulls out his revolver and runs back to cover him. He informs McBride that due to their location, they were fairly close to the location of Parker as well as potentially being in the line of fire, that they should change their position. He says that as soon as they begin to change their position is when the shots begin to ring out. He does not discharge his weapon.

Mike Simoni

He responds to the call that some guy has a knife and shots had been fired. Upon arriving to the scene, he sees the officers Clark and Sgt. Conley with their guns out and recalls that Sgt. McBride was right behind him. He also sees Parker with what he describes "yielding a large butcher knife with tape wrapped around his wrist..." At that point he does draw his weapon. Simoni states, "the guy kept comin' towards us and everybody's yellin', along with me uh, put the knife down. We don't wanna hurt you, put the knife down".

Referring to the demeanor of Parker, Simoni makes the comment, "...the guy his eyes are just bugged way out. He looks like he's on something". He also says that he was going to take his taser out but that the other officers did not feel that under the circumstances a taser would do any good. He states that the officers did not feel that a taser would work because of Parker's actions and his demeanor appeared to suggest that Parker was 'on something'.

Simoni says that Parker continued to come at the officers with the knife in a raised position and that the officers were backing up still trying to communicate with Parker to drop the knife. He says that Parker kept shaking his head no in response to the officers yelling at him to put the knife down. Simoni states "...there was five of us standing there I believe, I backed up to turn because someone behind me said something and at that time he came towards us pretty quick". After that is when the shots were fired and Parker, according to Simoni, fell to the ground. Simoni says he did not fire his weapon.

AUTOPSY

On October 5, 2006, Iowa State Medical Examiner Dr. Julia C. Goodin, performed an autopsy on Ellis Parker. Dr. Goodin concluded that the manner of death to be homicide due to multiple (8) gunshot wounds, one of which entered the anterior left chest perforating the heart and lungs.

Gunshot wound #1:
Entrance was in upper left anterior of the chest. The bullet traveled in a left to right direction, front to back and downward. The bullet perforated the left 3rd rib, left upper lobe of the lung, traveled through the pulmonary artery, left atrium, aorta and posterior 8th right rib. A partially copper-jacketed bullet was recovered from the posterior right chest wall.

Gunshot wound #2:
Entrance was in the lower mid abdomen. The bullet traveled in a left to right direction. Perforation was of the soft tissue and muscle only with the bullet exiting the right lower abdominal wall. It was a through-and-through wound.

Gunshot wound #3:
Entrance was to the right lateral torso. The bullet traveled in a right to left direction. Perforation was of the skin and muscle only with the bullet exiting partially through the mid lower back and final exit in the left lower back. It was a through-and-through wound.

Gunshot wound #4:
Entrance was to the base of the neck. The bullet traveled in a left to right direction and slightly downward. Perforation was of the skin and muscle only with the bullet exiting out the right shoulder. It was a through-and-through wound.

Gunshot wound #5:
Entrance was to the left anterior thigh. The bullet traveled in a front to back and right to left direction. Perforation was of the skin, muscle and soft tissue with the bullet exiting out the lateral left thigh. It was a through-and-through wound.

Gunshot wound #6:
Entrance was to the right medial arm at the elbow. Perforation was of the skin and soft tissue with a fracture of the olecranon of the right ulna. The bullet exited the right anterior upper arm. It was a through-and-through wound.

Gunshot wound #7:
Entrance was to the right anterior lower arm. The bullet traveled front to back. Perforation was of the skin and soft tissue with a fracture of the right proximal ulna. The bullet exited the posterior right arm. Bullet fragments were recovered in this area. It was a through-and-through wound.

Gunshot wound #8:
Entrance was to the dorsal left hand. Perforation was of the soft tissue and tendons with the bullet exiting the left medial palm. It was a through-and-through wound.

Other:
Stab wound to the left anterior upper chest measuring 1.5-2" in depth; cut to right wrist; glass shard in left posterior upper arm; cuts to right ankle, right buttock and left shoulder.

A toxicology report completed January 12, 2007, shows no indication of alcohol or other narcotic substances.

BALLISTICS

Officer James Clark possessed a Beretta 40 caliber pistol and discharged 3 shots during this incident.

Officer Ken Welch possessed a Colt 223 rifle and discharged 4 shots during this incident.

Sgt. Jim Conley possessed a Smith & Wesson 357 Magnum revolver and discharged 4 shots during this incident. The copper-jacketed bullet recovered from the body likely came from this weapon.

Lt. Mick Lefler possessed a Glock 40 caliber pistol and fired 1 shot during this incident.

CAUSE OF FIRE

The State Fire Marshall Division, by Agent J. Cullen, conducted an investigation into the cause of the fire at 4101 Gordon Drive, Lot #221. The investigation revealed that the origin of the fire was in the back (north) bedroom. The fire was determined not to be accidental.

LEGAL PRINCIPLES

Iowa Code § 704.3:

A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any imminent use of unlawful force.

Iowa Code § 704.1:

"Reasonable force" is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to life or safety, or the life or safety of a third party, or requires one to abandon or retreat from one's dwelling or place of business or employment.

The Iowa Supreme Court has stated that justification as a defense is two-pronged: an admission that a proscribed act was done, and the establishment of an exculpatory excuse that takes the act out of the criminal law. State v. Jeffries, 313 NW2d 508 (Iowa 1981). In State v. Cruse, 228 NW2d 28 (Iowa 1975), the Court held that the person must actually and honestly believe that he is in imminent danger of death or great bodily harm. That the danger need not be real but thought to be real in the person's mind, acting as a reasonable prudent person under the circumstances. Id. See also, State v. Rubino, 602 NW2d 558, 565 (Iowa 1999), stating person is justified in using reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any imminent use of unlawful force.

In addition, where the circumstances are such that the attempt to take an alternative course of action would pose a serious threat to one's safety, a party may use reasonable force, including deadly force, without first taking an alternative course. State v. Rupp, 282 NW2d 125 (Iowa 1979).

"Reasonableness of particular use of force must be judged from perspective of reasonable officer on the scene, and the calculus of reasonableness must allow for fact that police officers are often forced to make split-second judgments, in circumstances that are tense, uncertain and rapidly evolving". Graham v Connor, 490 US 386, 109 S.Ct. 1865 (1989).

When a justification defense is raised, the burden rests upon the State to prove beyond a reasonable doubt that the alleged justification did not exist. Rubino at 565.

ANALYSIS

From the facts and evidence presented in this case, there appears to be three separate and distinct acts of deadly force being utilized by the Sioux City Police officers who responded to 4101 Gordon drive on October 4, 2006. The question therefore becomes, under the circumstances presented to the officers at the time that they discharged their firearms, was it a reasonable use of force?

1. Officer Clark was first to discharge his weapon upon Ellis Parker. Available witnesses to the scene, as documented above, corroborate Parker was advancing on the police officers, Clark and Suggitt. At the time Parker advanced on the police officers he was holding a large knife in a threatening manner. The officers repeatedly yell commands for him to drop the knife which he refused to obey. The officers backed away from Parker trying to maintain a safe distance. He continued to advance on the officers causing Clark to fire three shots at Parker. Clark's statements were "...I was backed up as far as I could"; "...and he just kept coming towards me and I told him repeatedly to drop the knife...and he wouldn't do it". At the time that Clark fired his shots, Parker was within 10-15 feet of him.

2. Officer Welch was the second to discharge his weapon upon Ellis Parker. All available witnesses to the scene, as documented above, corroborate that Mr. Parker was

advancing on the officers, one of which was Welch. In addition, there is video footage displaying Parker's actions of advancing on the officers prior to Welch discharging his weapon.

The officers can be seen on the video backing away from an advancing Parker on several occasions. Parker is displaying the large knife and he is aggressive in his demeanor. Several of the civilian and fire personnel witnesses as well as officers involved express possible usage of drugs or other substances due to the actions of Parker during this incident, however no illegal substances were found in his system. Parker refuses to obey the officer's repeated commands to put down the knife. Comments by some of the officers involved in the shooting suggest that Parker willingly disobeyed their commands to put down his knife as determined by Parker shaking his head in a 'no' fashion.

The statements by the officers and witnesses, along with the video footage, indicate that Parker temporarily stops his advancement, he then turns his attention in the direction of Welch, makes a very movement in the direction of Welch causing Welch to fire one shot from his rifle to stop this threat. This one shot does not prevent further aggressive actions taken by Parker.

3. Officer Welch, Lt. Lefler and Sgt. Conley all discharge their weapons upon Ellis Parker which results in Parker's final submission. Available witnesses to the scene, as documented above, corroborate that Parker was advancing on the group of officers prior to the final round of shots being fired. The video footage of this incident also corroborates the statements of the police officers as well as the witness statements.

After Parker is shot by the one round fired by Welch, he becomes very agitated, aggressive, jumping around and is then seen on the video advancing at the group of officers with the large knife still in his hand. The officers respond to the advancing Parker with Welch firing an additional three shots, Lefler firing one shot and Conley firing four shots from their weapons. At the time that these officers fired their shots, Parker was within 10-15 feet of them. This final round of shots by the officers does cause Parker to fall to the ground ending his threat towards the officers.

CONCLUSION

It was reasonable for the officers to believe that their lives and the lives of the other officers were in imminent danger of death or serious injury. Parker was the person to initiate the chain of events leading to shots being fired by the officers. He failed to stop when the officers issued repeated commands for him to put down his knife. The officers attempted to back off of Parker trying to keep a safe distance prior to resorting to deadly force. If Parker had not resisted the officers repeated commands to put down the knife and had he not continued to advance, the officers would not have been put in a position where their lives were threatened. Had Parker not made his aggressive movements towards the officers they would not have needed to use deadly force. The actions taken by the officers were reasonable under the circumstances and justified under the laws of the State of Iowa.