

As Officer Lehner and Officer Friestleben approached the address of the PERWEA call, they encountered a female (Lequisha Milon) who had two glass bottles in her hands. Ms. Milon was eventually secured in the rear of their squad car as they determined who had a weapon. Another woman at the scene then directed officers to apartment #202 where a woman had a knife. According to Officer Lehner, Sgt. Olson was present at the scene at some point. Officers arrived at apartment #202, where they announced their police presence. A Native American woman, known to officers as Melanie Hanks, opened the door. Ms. Hanks did not have a knife; however, Officer Lehner stated that he could see straight through the living room and hallway where he observed AP/Sandcrane seated on the floor in a bedroom. AP/Sandcrane was holding a knife in one hand and a cell phone in another.

Officer Lehner stated that he moved into the apartment with his gun drawn past Melanie Hanks, as he didn't want Ms. Hanks to be in between himself and AP/Sandcrane, who was still in possession of a knife. Officer Lehner stated that he did not know who else was in the apartment due to doors being closed (both closet and bathroom). Officer Lehner ordered AP/Sandcrane to drop the knife "probably two, three times from the time I entered the apartment" to the point he was at the threshold of the hallway.

AP/Sandcrane set the knife down on her right side within one foot of her body.

AP/Sandcrane remained seated during the whole encounter and according to Officer Lehner, did not make any physical movements or verbal statements to indicate that she was attempting to reach for the knife once she had set it down.

As Officer Lehner proceeded down the hallway, which was described as being fifteen to twenty feet in length, he stated that AP/Sandcrane held a cell phone up to her ear. Officer Lehner told AP/Sandcrane to get off the phone and she responded by telling Officer Lehner to "fuck off". Officer Lehner also stated that he told AP/Sandcrane to get away from the knife, and again she responded with "fuck off". Based on Officer Lehner's statement, he gave verbal commands to AP/Sandcrane for less than one minute to either put the knife down or get off the phone. Officer Lehner stated that AP/Sandcrane was not actually talking into the phone, but was holding it up to her ear. Officer Lehner stated that he ordered AP/Sandcrane to get away from the knife "once for sure", and that she was also ordered to exit the bedroom at some point during the contact.

Officer Lehner approximated that he was anywhere from 17-20 feet away from AP/Sandcrane as he stood at the mouth of the bedroom to AP/Sandcrane, who was seated on the floor facing him.

Officer Lehner stated that he had his handgun out and that he had a couple of options for dealing with AP/Sandcrane:

-Officer Lehner considered the option of holstering his handgun, grabbing AP/Sandcrane by the hair or the upper body, and pulling her away from the knife. He did not think that this was feasible due to putting himself in a situation of not knowing whether he had a cover officer to protect him. He noted that if he put his handgun away, AP/Sandcrane could grab the knife and he could not defend himself properly.

-Officer Lehner considered the option of confronting AP/Sandcrane physically, which is what he did. Officer Lehner did not holster his handgun and used a "kick technique to her nose, her face". Officer Lehner described that he hit her one time "exactly where I wanted to hit her and the reason behind that was, I've been punched in the nose, kicked in the nose, I know what it does to me physically- causes me to tear up, it disorients me for a very brief period of time, the pain is extremely minimal and that's the technique I used". Officer Lehner also used this technique because he was able to keep his hands on his handgun in case anything would happen, and if the technique did not work he could back out of the room and "do other things". Officer Lehner stated that the other things included calling a negotiator, or if AP/Sandcrane barricaded herself (in the room) he could deal with that, or that he would have the distance and time that is needed for twenty-one feet to get away if needed.

In regards to his actions, Officer Lehner stated that after AP/Sandcrane put the knife down, he did not give her a chance to reach for it. He moved in from the hallway to kick AP/Sandcrane in "maybe a second and a half". According to Officer Lehner, "she gave me a small tiny window to take action and deescalate the situation and there was no time to ever converse with any of the officers there".

Officer Lehner stated that AP/Sandcrane "gave me the opportunity" and that he went into the room, "kicked her one time right in the face, right in the nose. It teared her up, disoriented her, grabbed her by the hair after I holstered my handgun, pulled her forward

and she was handcuffed with no problem (sic)". Officer Lehner stated that he was within two to three feet of AP/Sandcrane upon kicking her and that he used "probably forty percent strength and it was the top of my foot". Officer Lehner did not consider that he was off balance while in a kicking position. Officer Lehner indicated that he has practiced Martial Arts disciplines (Soo Bahk do, Tae Kwon Do, Karate) for twenty years as a means to better himself.

Officer Lehner stated that he does not carry a taser and did not have the option to use one (page 4, line 1). When asked about the use of OC spray, Officer Lehner stated that it causes him to cough and that he can't breathe very well. Officer Lehner was questioned about other use of force options, i.e. soft empty hand techniques, or anything other than a kick. Officer Lehner stated:

*"In this situation when it comes to my hands like a palm heel strike, a brachial stun, or grabbing her by the legs, I was not going to holster my weapon not knowing where my cover was with an armed officer and risk her just easily just walking her hand down and grabbing the knife and harming me with it. So in this particular case that was not an option to me, to try to kick her legs up it would have done no good, she's already sitting. To kick her in the chest, I wasn't going to do that because she could grab me, I don't know what experience and training she has either and if I get my foot stuck in her midsection where she wraps her legs around she can easily grab the knife, stab me right in the artery in the thigh and I could bleed to death, so to me she gave me the opportunity to deescalate this situation, I immediately went to what I believed would work best, which was a kick to the face, which was a lower use of force than shooting her and it worked perfectly and again I'm gonna reiterate what I had said before – the kick to the face was a very quick option, it allowed me that opportunity that if it did not work that I could easily get out of that bedroom and create distance between us and then we could use other options. If she stood up Sgt. Olson has a taser he could properly deploy that, which he didn't. If she, uh, came out of that bedroom and she was in a more open area, you could have the option of making her, I don't know."*

When asked, Officer Lehner stated that AP/Sandcrane did not pose an immediate threat to him, but that at some point Ms. Hanks was in between the officers and AP/Sandcrane,

as she held the knife in her hand. Officer Lehner indicated it was possible other people were in other rooms of the apartment that had not been checked and it was unknown if AP/Sandcrane was drunk, high, or suicidal.

Officer Lehner asserted that this was a deadly force situation. He considered that AP/Sandcrane was exhibiting Active Resistance because “she had the potential to escalate that situation even though she set that knife down”. Officer Lehner stated that he has never been “physically trained” to use a kicking strike to the head or face, but did state that *“during that training when they talk about force, whether its use of force, um, soft empty hand, hard empty hand, impact weapons, chemical irritants, um, tasers, all the way up to deadly force. When it gets to a deadly force situation, which this was, you can – we’ve been told you can use what means are necessarily, that you believe were necessary to deescalate the situation, including deadly force and in this case this was a deadly force situation. Deadly force was not used, I used a technique that was way below a deadly force and it worked.”*

Officer Lehner has attended Defensive Tactics In-Service training in the past year, which was confirmed by both Training records and Training Development Supervisor Mary Lou Fiala. According to training records maintained in Workforce Director going back to 2007, Officer Lehner completed 2011 Fall DT Certification, 2010 Fall In-Service (DT/Legal), 2009 Fall Defensive Tactics In-Service, and 2007 Defensive Tactics Session 1 and 2.

### **Statement of Officer Tammy Friestleben**

Officer Tammy Friestleben was interviewed in the Internal Affairs Unit Office on July 9<sup>th</sup>, 2012, regarding this case. Officer Friestleben stated that she and her partner, Officer Blayne Lehner, responded to 2220 14<sup>th</sup> Avenue South, #202, on a report of an Indian female threatening people with a knife. After encountering several individuals outside of the apartment complex, officers were directed to apartment #202, which is where the female with the knife was reported to be. Officers made contact with a female who answered the door at apartment #202, identified as Melanie Hanks. (Officer Friestleben reported in her CAPRS supplement that she had dealt with Ms. Hanks several times in the prior week on police calls). Ms. Hanks advised officers that she did not know who else was in the apartment. Officer Friestleben stated that after stepping into the threshold into the apartment, she could see straight ahead in the apartment and observed an individual, later identified as Kimberly AP/Sandcrane, sitting on the floor (in a bedroom with a knife in one hand and a cell phone in the other hand). Officer Lehner and Officer Friestleben proceeded towards the back bedroom while directing AP/Sandcrane to put down the knife. It was stated that even Ms. Hanks was yelling at AP/Sandcrane to cooperate with officers. AP/Sandcrane put the knife down alongside her (right below her knee) as she remained in a cross-legged seated position, but did not put the cell phone down as instructed. AP/Sandcrane's demeanor was described as "belligerent" and she told officers to "fuck off".

Officer Friestleben considered it a deadly force situation and had her handgun out while issuing verbal commands. Officer Friestleben stated that she and Officer Lehner were