



**OFFICE OF THE DISTRICT ATTORNEY
EIGHTEENTH JUDICIAL DISTRICT**

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February 27, 2018

Re: Death of Roy' Ale Spencer
9 years of age
WPD Case # 19C004292

Facts

1. On January 21, 2019, at 0826 hrs (8:26 a.m.), Wichita Police were dispatched to the scene of a shooting in the 2200 block of East MacArthur, in Wichita, Kansas in the Stonegate Mobile Home Park;
2. The calling party initially said the victim accidentally shot himself. Dispatch later advised, "[he/they] *were playing around and did not think it was a real gun.*"
3. Officers arrived on scene and located the body of Roy' Ale Spencer, 9 yrs of age, in a bedroom within the trailer home;
4. Fire and EMS were already on scene when officers arrived. Officers spoke to the first firefighter into the residence who provided the following information:
 - a. The victim was on the floor on the far side of the bed in the master bedroom;
 - b. He found the victim being attended to by a young woman doing CPR on the victim when he (the firefighter) arrived;

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- c. He saw three long guns in the bedroom: what appeared to be a BB gun under the victim's legs; what appeared to be a second BB gun "standing in the threshold of the closet"; and a third gun on the bed that the firefighter "believed to be real";
 - d. The firefighter said the gun that appeared to be real was laying on the bed when he entered;
 - e. It appeared to the firefighter that Roy'Ale had been shot very recently, given the temperature of his body.
5. The firefighter was later interviewed by Detectives. He clarified that he moved one BB gun to the closet after finding it leaning against the bed next to Roy'Ale. He had found the gun sitting on the floor on its stock, with the barrel pointing up, toward the ceiling;
 6. Inside the bedroom where Roy'Ale was found, officers located a metal gun safe as well as three (3) long guns outside of the safe: (1) Crossman 788 BB Scout, BB Rifle; (2) Crossman Model 760 pellet rifle; and (3) Harrington & Richardson Model 88 Topper 410 gauge, single shot (breech loading/break action) shotgun;
 7. The three weapons were later processed by the crime scene analyst. Several ridge pattern impressions appear on the metal surface of the Crossman 760 pellet rifle, but when investigators attempted to "lift" fingerprints, no prints of comparable quality were recovered.
 8. Loose BBs were located on top of a bedspread on the bed next to where Roy'Ale was found;
 9. EMS arrived and Roy'Ale was pronounced deceased at 8:32 a.m. Roy'Ale was not removed from the scene by EMS or fire. The body of Roy'Ale Spencer was later removed from the scene by the coroner;

10. Officers made contact with a 16 yr-old female, a 14 yr-old female and the 16 yr-old brother of Roy'Ale, who reported having been in the residence at the time of the shooting. The three witnesses were transported to the investigation division for interviews;
11. The three witnesses told responding officers that an 11 yr-old male had left the residence on foot after the shooting;
12. The adult male and female residents of the trailer had left together earlier that morning for their respective places of employment;
13. The 14 yr-old female resident was transported to city hall and interviewed. She told detectives the following:
 - a. She was asleep when the 11 yr-old came into her room. She believed he said Roy'Ale had "accidentally shot" himself;
 - b. She and Roy'Ale's brother went to the master bedroom and found Roy'Ale on his back on the far side of the bed;
 - c. Roy'Ale's brother called 911 and handed her the phone;
 - d. At the direction of the 911 dispatcher, the 14 yr-old female straightened out Roy'Ale's legs and conducted CPR on Roy'Ale;
 - e. The two adults in the home had left together earlier that morning around 4:00 a.m. for their respective places of employment;
 - f. The adult female was called and returned to the trailer;
 - g. An 11 yr-old resident of the trailer left the home on foot, scared;
 - h. The 11 yr-old and Roy'ale were friends who got along with one another;
 - i. She could not remember anyone getting into the gun cabinet in the master bedroom anytime in the last several years.

14. While being transported to the city building, the 16 yr-old female told the transporting officer the following:

- a. She was in bed when she heard a noise;
- b. She went to the master bedroom and found the 11 yr-old male and Roy'Ale in the room alone;
- c. Roy'Ale was on the floor of the bedroom;
- d. The 11 yr-old male stated, "*I am so sorry. I didn't mean to do it. I am so sorry.*"
- e. The 11 yr-old then exited the residence wearing only a pair of shorts and holding a blanket.

15. After arriving at city hall, the 16 yr-old female was formally interviewed. She added the following information in her formal interview:

- a. She was woken from sleep by the sound of a loud noise;
- b. She heard the 11 yr-old run into the 14 yr-old female's room and then heard the 14 yr-old female yelling, "*Oh my God. Oh my God*";
- c. She then heard the 14 yr-old yell that the 11 yr-old had "*accidentally shot Roy'Ale in the face.*"
- d. When asked if she heard any arguing prior to the shot being fired, the 16 yr-old female said she had not. She said the 11 yr-old and Roy'Ale were close friends who got along well.

16. The 16 yr-old brother of Roy'Ale was interviewed. He told detectives the following:

- a. He was woken by the 11 yr-old, who said "*Roy'Ale shot himself with a gun.*"
- b. He and the 14 yr-old female went into the bedroom and found Roy'Ale on his back with a "bleeding" injury to his face;

- c. A gun was on the bed;
 - d. He then called 911;
 - e. He said the 11 yr-old asked him if the police would check to see who touched the gun. When the 16 yr-old male responded yes, the 11 yr-old said he had picked up the gun and put it on the bed;
17. The 11 yr old was transported to the city building by officers and interviewed by detectives. Ultimately, the detectives learned that the boys had gotten what they thought were BB guns out of the gun safe and had checked them to see if they were loaded by shaking them, prior to playing with them.
18. The adult male resident of the trailer who had left that morning for work, was subsequently interviewed by Detectives. He stated that he left for work early that morning and dropped off the adult female resident at her place of employment on his way to work. When asked about the gun safe in his bedroom, he said the locking mechanism to the cabinet was not functioning properly and as a result, while it could be locked, keys other than the assigned key would open the cabinet. He believed he was the last person to touch the 410 shotgun and that had been over seven years prior;
19. The neighborhood was canvassed by law enforcement officers. An adult in the area was interviewed by law enforcement. He said that he heard a noise which he initially thought was an object “slammed by the wind.” He then saw a juvenile male wearing shorts and a blanket over his shoulders running down the street alone;
20. At 0928 hrs (9:28 a.m.), the 11 year-old male resident of the trailer house was located by a WPD Officer walking alone near the MacArthur Street entrance of the trailer park—approximately ¼ mile north of the residence. The 11 year old male was wearing a pair of shorts and carrying a small blanket;

21. The “Provisional Anatomic Diagnosis” from the Sedgwick County Coroner, states that the cause of death is gunshot wound to the head. Additional details include, “entrance lower face,” with the “path: through the mandible, tongue, and soft tissue of [the] medial right upper neck.” The “direction” of the projectile was “backward and right.” The cause of death is listed as homicide.

Inaccuracies

Several facts have been alleged publicly that are not supported by the facts and evidence uncovered during the investigation.

First, that Roy’Ale was “shot in the back.” Photos taken by crime scene investigators at the scene and at the autopsy make clear that Roy’Ale was not shot in the back. The Forensic Pathologist’s diagnosis confirms the same. He was shot from the front, a single time by the .410 shotgun which was loaded with a “slug,” not birdshot.

Second, it has been alleged that the .410 shotgun was wiped clean of fingerprints. There is no indication that the weapon was “wiped.” In fact, visual examination of the metal components of the weapon after crime scene investigators attempted to retrieve fingerprints, show that several smeared ridge impressions were still present. None were of comparable value, but nothing indicates the weapon was manipulated or somehow wiped clean to remove fingerprints.

Third, that the 11 yr-old who shot Roy’Ale left the residence and was found two hours later with his father. In fact, witnesses in the residence and at least one unrelated person in the neighborhood saw the 11 yr-old leave on foot wearing only a pair of shorts in approximately 30 degree weather leaving alone. Officers found him near the entrance of the same trailer park approximately sixty-two (62) minutes after dispatch, alone. Axon video from the officer’s body camera confirms that the 11 yr-old was alone when located. He was then transported alone to the city building to be interviewed.

Fourth, the suggestion has been made that the 14 year old female found the shotgun on Roy' Ale's chest. Roy' Ale's brother told law enforcement officers that when he and the 14 yr-old female entered the room, the gun was on the bed. He remembers having a specific conversation with the 11 yr-old shooter about the gun. The first firefighter on the scene confirmed the placement of the shotgun at the time of his arrival. This is where crime scene investigators found the shotgun.

Conclusions

The evidence uncovered during the investigation of the shooting death of Roy' Ale Spencer shows that Roy' Ale or his 11 year old friend (or both) got into the gun cabinet that morning. It is unclear how the cabinet was unlocked, but it was capable of being locked. It appears the boys retrieved the three long guns from the cabinet, two of which were BB rifles while one was a single shot .410 shotgun. One or both of the boys appear to have "checked" to see if the guns were loaded by shaking them. Loose BBs located on the surface of the bed offer objective confirmation that, when loose BBs were heard in the weapon, one of the boys emptied the BB guns onto the bed. The 11 yr-old held the .410 shotgun and pulled the trigger. The single shot struck Roy' Ale in the face causing fatal injuries to his face, mouth and neck. There is no indication the 11 yr-old knew the weapon was a shotgun, as opposed to a BB gun, or that the weapon was loaded.

There is no evidence to support the contention that the 11 yr-old knew the gun was loaded or that he pulled the trigger with any design to inflict bodily harm or death on Roy' Ale Spencer.

Kansas has no "safe storage" law that would require specific security measures to be taken by gun owners to secure their firearms. While the locking mechanism for the gun safe in question may not have been functioning properly, there is no indication that the safe was either unlocked or incapable of being locked.

The facts uncovered by the investigation do not support the filing of criminal charges
in this matter.



Marc Bennett
District Attorney