

## RYAN STOKES: JUSTICE FOR RYAN

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### INTRODUCTION

*[W]hen any part of the American family does not feel like it is being treated fairly, that's a problem for all of us. — President Barack Obama*<sup>1</sup>

Mothers across this nation have become unwilling members of a club no one wants to join. Police kill over a thousand young men and women every year.<sup>2</sup> “Nearly sixty percent of victims did not have a gun or were involved in activities that should not [have] require[d] police intervention[,] such as harmless ‘quality of life’ behaviors or mental health crises.”<sup>3</sup> Each death, regardless of its specifics, leaves a family grieving.

This epidemic of officer-involved shootings (hereinafter “OIS”) disproportionately affects minorities and the mentally ill or disabled.<sup>4</sup> A young black man is twenty-one times more likely to encounter police who will use

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1. President Barack Obama, *Remarks by the President After Meeting with Elected Officials, Community and Faith Leaders, and Law Enforcement Officials on How Communities and Law Enforcement Can Work Together to Build Trust to Strengthen Neighborhoods Across the Country*, THE WHITE HOUSE OFFICE OF THE PRESS SECRETARY (Dec. 1, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/12/01/remarks-president-after-meeting-elected-officials-community-and-faith-le> [<https://perma.cc/D5SH-HLWH>].

2. MAPPING POLICE VIOLENCE, <https://mappingpoliceviolence.org/aboutthedata/> [<https://perma.cc/EA9C-SETQ>].

3. CAMPAIGN ZERO, <https://www.joincampaignzero.org/problem/> [<https://perma.cc/QN5Q-RVDC>].

4. Wesley Lowery, *Study Finds Police Fatally Shoot Unarmed Black Men at Disproportionate Rates*, WASH. POST (Apr. 7, 2016), [https://www.washingtonpost.com/national/study-finds-police-fatally-shoot-unarmed-black-men-at-disproportionate-rates/2016/04/06/e494563e-fa74-11e5-80e4-c381214de1a3\\_story.html?utm\\_term=.9e0e5d2f7ea3](https://www.washingtonpost.com/national/study-finds-police-fatally-shoot-unarmed-black-men-at-disproportionate-rates/2016/04/06/e494563e-fa74-11e5-80e4-c381214de1a3_story.html?utm_term=.9e0e5d2f7ea3) [<https://perma.cc/AE59-AM4C>]; Ari Melber & Marti Hause, *Half of People Killed by Police Have a Disability: Report*, NBC NEWS (Mar. 14, 2016), <http://www.nbcnews.com/news/us-news/half-people-killed-police-suffer-mental-disability-report-n538371> [<http://perma.cc/Z85V-M443>].

force against him, than his same-aged white peers.<sup>5</sup> Black males are 2.8 times as likely to die due to law enforcement action as white males, with Hispanic males 1.7 times as likely.<sup>6</sup>

In August 2014, when Officer Darren Wilson shot and killed an unarmed Michael Brown, his community reflected the long simmering anger cultivated over decades of unfair treatment.<sup>7</sup> “Just thirty-five percent of black Americans believe their local police treat ‘racial and ethnic groups equally.’”<sup>8</sup> The events in Ferguson birthed a renewed civil rights movement in which the protesters asserted “Black Lives Matter.”<sup>9</sup>

Ferguson, however, did not reflect the experiences of white communities. As a result, white communities’ and politicians’ growing response to protests over police violence was reflected in the election of Donald Trump on November 8, 2016. “[M]illions of white Americans, including much of his voting base, are profoundly alienated by black protest movements against abusive police.”<sup>10</sup> In President Trump’s inauguration speech, he promised “to save America from a hellish wave of crime and disorder.”<sup>11</sup> Jamelle Bouie, chief political correspondent for *Slate*, cautioned that Trump’s imagery was used “to demonize groups and protest movements organized around police reform.”<sup>12</sup> He pointed out in his January 23, 2017 article, *The Meaning of “American Carnage,”* that on day one, the White House page on law enforcement was changed to read: “Our job is not to make life more comfortable for the rioter, the looter, or the violent disrupter.”<sup>13</sup> This language demonizes the need to reform. The truth is, if our nation is genuinely interested in reducing violence against citizens, politicians should see civil rights groups as partners, not as adversaries. “Neighborhood safety and police accountability aren’t in tension with each other. Effective police departments are those that don’t tolerate misconduct and that open pathways for officers and communities

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5. Ryan Gabrielson, Ryann Grochowski Jones & Eric Sagara, *Deadly Force, in Black and White*, PROPUBLICA (Oct. 10, 2014 11:07 AM), <https://www.propublica.org/article/deadly-force-in-black-and-white> [https://perma.cc/3X4V-JEB2].

6. James W. Buehler, *Racial/Ethnic Disparities in the Use of Lethal Force by US Police, 2010–2014*, 107 AM. J. OF PUB. HEALTH 295, 296 (Feb. 2017).

7. See Shannon Luibrand, *How a Death in Ferguson Sparked a Movement in America*, CBS NEWS (Aug. 7, 2015), <http://www.cbsnews.com/news/how-the-black-lives-matter-movement-changed-america-one-year-later/> [http://perma.cc/P93D-9ZRX].

8. Jamelle Bouie, *The Meaning of “American Carnage,”* SLATE (Jan. 23, 2017), [http://www.slate.com/articles/news\\_and\\_politics/politics/2017/01/what\\_trump\\_means\\_when\\_he\\_talks\\_about\\_american\\_carnage.html](http://www.slate.com/articles/news_and_politics/politics/2017/01/what_trump_means_when_he_talks_about_american_carnage.html) [http://perma.cc/2EBA-AFQB].

9. Luibrand, *supra* note 7.

10. Bouie, *supra* note 8.

11. *Id.*

12. *Id.*

13. *Id.*

to work with each other,” Mr. Bouie reported.<sup>14</sup> Police officers and departments that harm and/or kill citizens must be held accountable to build community trust. They must commit to needed reform as outlined in the consent decrees entered in Baltimore, Cincinnati, and Chicago, each of which recognized a widespread injustice.<sup>15</sup>

Narene Stokes-James is one mother who has lost a son to a police officer’s lethal use of force in Kansas City.<sup>16</sup> She is the inspiration for activism in Kansas City dedicated to the memory of her son. She seeks reforms to build community trust and to protect other young men. Like the “Mothers of the Movement,” who inspired a nation during the 2016 Democratic National Convention, Narene Stokes-James “wake[s] up every day thinking about how to parent [her son]. How to protect him and his legacy. How to ensure his death doesn’t overshadow his life.”<sup>17</sup> Narene has stood in public places time and again since Ryan’s death, and she has made us remember Ryan’s life.

### I. RYAN STOKES<sup>18</sup>

*“For the families of those killed by the police, it is often most shattering that their loved one was killed by the very people sworn to protect them. A family and a community’s fundamental understanding of safety and security in our society is threatened when those pledged to protect kill.”*<sup>19</sup>

Ryan Stokes was only twenty-four years old when his family gathered at the Zion Grove Baptist Church to send him home. His funeral was officiated by Rev. Michael Brooks. Family and friends filled the church. Ryan’s mother, Narene Stokes-James arrived for her son’s funeral that morning, and was

14. *Id.*

15. Consent Decree at 1–2, *U.S. v. Baltimore Police Dep’t.*, No. 1:17-CV-00099 (D. Md. Jan. 1, 2017); Collaborative Agreement at 3–4, *In re Cincinnati Policing*, 209 F.R.D. 395 (S.D. Ohio Aug. 5, 2002) (No. C-1-99-317); Agreement in Principle Between the United States Department of Justice and the City of Chicago 1, available at <https://www.justice.gov/opa/file/925901/download> [<https://perma.cc/ZE56-3Z2E>].

16. Narene Stokes-James, *A Mother’s Plea: Don’t Overlook My Son’s Death*, DISTRICT CHRONICLES (Dec. 27, 2014), <http://www.districtchronicles.com/news/view.php/858156/A-mothers-plea-Dont-overlook-my-sons-dea> [<https://perma.cc/5JZ9-X9QZ>].

17. Will Drabold, *Read What the Mothers of the Movement Said at the Democratic Convention*, TIME (July 27, 2016), <http://time.com/4424704/dnc-mothers-movement-transcript-speech-video/> [<https://perma.cc/5J65-2QQ2>].

18. This essay is based primarily on the author’s conversations with individuals involved in these events and the author’s knowledge gathered as counsel for Neriah Marie Lee Stokes, the daughter of Ryan Stokes, in *Stokes v. Kansas City Bd. of Police Commissioners*, Case No. 4:16-cv-00843 (W.D. Mo.), which is an ongoing case scheduled for trial after the publication date of this essay. Citations to supporting published documents are provided where possible, but all other statements are solely those of the author and all errors or omissions belong to the author.

19. WESLEY LOWERY, *THEY CAN’T KILL US ALL: FERGUSON, BALTIMORE, AND A NEW ERA IN AMERICA’S RACIAL JUSTICE MOVEMENT* 34 (2016).

overwhelmed by the love for her son. Narene described that morning during testimony in front of the Missouri Advisory Committee to the United States Commission on Human Rights:

I dragged myself out of bed, slipped on the blue dress Ryan loved and went to the Zion Grove Baptist Church to say good bye to my only son . . . . I had devoted 24 years of my life to his growth and development. I was proud of the man Ryan had become. I knew my son was special, but I had no idea how many others had been touched by him, until I arrived at the church that day. The sanctuary was filled with family and friends, neighbors and customers, extended families and people Ryan had helped in some way or another. Those who could not get seats stood in the back, and those who could not get into the church, stood in the heat and listened through the open windows.

I spent 24 years watching over my son, teaching him, worrying about him, and loving him. I attended [hundreds] of ball games, teacher conferences, graduations and celebrations of his achievements. I worked side by side with mother's [sic] of his friends, so I knew where he was and what he was doing. Ryan made it easy because he loved to play basketball and he and his friends played every minute they could, wherever they found a court and a competitor. [His love of the game was contagious. He was never in the streets. He had always had goals and dreams. He loved us.] I had worked to [sic] hard to beat the streets and I had won. [And then a Kansas City Police officer shot and killed my son. That fact compounded my pain.]<sup>20</sup>

The funeral was at the end of five exhausting and confusing days, which had begun when her son's best friend banged on Narene's front door shortly after 3 A.M. on July 28, 2013. She opened the door, and Lover Johnson stood on the step asking urgently, "Is Back here?" Lover had received a call from his sister, Frankie Dorch, who had witnessed the police shoot Ryan, minutes before she placed the call to her brother. Lover recalled that his sister had screamed into the phone, "The police shot Back." When Lover heard her voice, and the words about his best friend, he dropped to the floor in agony. Frankie cried into the phone, "Back is gone."

Ryan "*FatBack*" Stokes was Lover's best friend. He had seen Ryan nearly every day for ten years. They met in high school, and built a life-long friendship. Lover rushed to Ryan's house praying that Ryan would be in his room asleep, and that Frankie was wrong about what she thought she heard and saw. However, Ryan was not home when Lover arrived. Lover did not want to tell Narene what his sister told him so he told her he had received a call from Frankie about Ryan and that he had been shot.<sup>21</sup> As Narene and her daughter

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20. Narene Stokes-James, Public Statement to the Missouri Advisory Committee to the United States Commission on Human Rights (Aug. 20, 2015) (on file with author).

21. Narene recalled an earlier call when a football coach at Southeast High School called her to tell her sixteen-year-old son had been caught in crossfire after a football game. He worked for

Tosha prepared to go downtown to find Ryan, Lover called Ryan's cell phone. We now know that Ryan's cell phone lay on the pavement near his body. It must have been ringing and buzzing repeatedly, as the police and paramedics swarmed around the critically injured young man.

Narene moved into action. She had worked at Truman Medical Center for eighteen years. It was the closet trauma hospital in the area. Narene and her daughter rushed to the ER, a few minutes from their home, expecting to find Ryan there. Narene ran to the reception desk when she arrived and recognized the staff. She asked if a *John Doe* had been brought in with gunshot wounds. She was told they did not have anyone meeting that description. Narene and her daughter left Truman and quickly drove a few miles north to the location where her son was reported to have been shot. They could see the crime scene tape, tennis shoes on the pavement, and a lot of police. They thought they saw someone on the ground, and Narene asked if that was her son lying on the pavement. She was told to wait at the bus stop until someone came over to talk with her. When an officer finally came to speak to her at the bus stop they asked her if her son wore a cross. He did. Then they told her to go home. Someone from the police department, they said, would be in touch.

As word spread, family and friends began to gather at Narene's home. Brittany Lee (Ryan's girlfriend), Ryan's sisters, and his cousins began to call the jails and the hospitals hoping to find Ryan. Narene's sister-in-law, Twyla DePriest, answered the phone when Narene called early that morning. Narene said, "I think something has happened to Ryan." She explained that Lover had come to her home shortly after 3 A.M., and told her Ryan may have been shot down at Power & Light.<sup>22</sup> Twyla remembered, "As Narene and I talked, a news report came on, in which the reporter described a stand-off, during which police had shot and killed a young African American man. They knew that Ryan would never get into a shoot-out with the police, and therefore, it was unimaginable that the person shot could have been Ryan."<sup>23</sup> As Narene and her family waited for word from the police department, people continued to call his cell phone, and when there was no answer, their fear increased.

Narene's home sits on the corner at East 52nd Street. Her house sits back on the lot, and has a chain link fence around the front and the side. The *Mary Kelly Community Center* sits just north of her home, with a wide field in-

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the coach at the games and was doing his job when shots erupted near him. Ryan was rushed to Children's Mercy Hospital with a gunshot wound to his face. He survived.

22. The Power & Light District in downtown Kansas City was completed in 2007. The area includes restaurants, bars, theaters, the College Basketball Hall of Fame, and the Sprint Center. It is a destination location in Kansas City.

23. See Kevin Collison, *Police Officer Shoots, Kills Man in Kansas City*, KAN. CITY STAR, (July 28, 2013) <http://www.kansascity.com/news/local/article323991/Police-officer-shoots-kills-man-in-Kansas-City.html> [<https://perma.cc/H4EN-PGJH>].

between her home and the basketball court. When Twyla arrived at the Stokes family's home that morning, there were a lot of people assembled. Cars lined the street in front of Narene's house, and on the street just west of her home. Young people were out of their cars, and gathered in groups. Family and friends filled the front yard and the sidewalks. Others were inside the house. The emotions varied from crying, wailing, numbness, shock, fear, and waves of hope.

Narene was in a state of shock. People were bringing food and water to the house. Others were stopping by to pay their respects and to wait with the family for news of their son. Twyla watched as Narene tried to stand, and she recalled, "her knees gave way several times." The emotions she showed that day went from hope, to anger, to fear, to deep sadness. Late in the afternoon, homicide detectives called, and asked for Narene. They wanted her to come to the police station. She told them they could come to her home to say what they had to say to her and to her family.

At about 4 P.M., thirteen hours after Lover Johnson knocked on her door, police cars began to arrive at the house. They blocked traffic on Narene's street and on the street west of her home. Officers got out of their patrol cars and stood watching the people who had gathered peacefully to wait for the news. Some of the officers were in uniform. Others wore vests, emblazoned with "POLICE." Two homicide detectives arrived, and were escorted into Narene's yard by several uniformed officers. The crowd went quiet as the detectives and the officers walked through the gate and up to Ryan's mother.

The detectives asked for Narene Stokes-James. She stood on her unsteady legs and faced them. Twyla stood very nearby and heard the detectives tell Ryan's mother that her son was in a stand-off with police and that the police were forced to shoot and kill him. They said he had a gun and that he had pointed it at the officers. They claimed that after Ryan refused to follow their multiple commands to drop the gun he was shot in the chest multiple times. Narene collapsed to her chair, and Ryan's father stepped forward to speak to the officers. The detectives and their escorts then hurried away.

Twyla was shocked that they handled the notice of Ryan's death this way. They had not told this mother that they were carefully investigating her son's death. She was surprised that they would form and offer conclusions before an investigation was completed. They coldly reported "facts" which painted Ryan as a bad man, who had caused a good man to shoot him in self-defense. The message to Ryan's parents was that: "Your son is responsible for his own death. He made the officer shoot him."<sup>24</sup>

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24. Minutes of the Board of Police Commissioners Meeting, Kan. City Police Dep't (Mar. 7, 2017), <http://kcmo.gov/police/board-of-police-commissioners/board-minutes/march-7-2017-meeting/#.WSr9DIKZNE4> [<https://perma.cc/T7AV-MWXD>]; Twyla DePriest, Statement Prepared for the Board of Police Commissioners on behalf of Ryan Stokes (Mar. 7, 2017) (on file with author).

Narene's collapse signaled to the crowd that Ryan was dead. There was crying, wailing, and yelling. Family and friends had gathered outside Ryan's home, to support the family. They were confused by the show of force by the police. As word travelled through the crowd that Ryan was gone and that he was accused of assault of a police officer, everyone was very confused by what the police were telling the family. Ryan's family and friends were immediately suspicious of the police narrative. Their suspicion and confusion was only intensified when they learned that Ryan had not, in fact, been shot in the chest.

Ryan's body arrived at the funeral home a few days later, after his autopsy. The funeral home prepared for his parents to view their son's body. The funeral director, Malcolm Morris, listened to Mr. Stokes explain what they had been told by police about the death of their son. When he heard Clarence Stokes say that the police had shot his son in the chest, he told Ryan's parents that their son had not been shot in the chest. "Ryan," he told them, "had been shot in the back."

## II. RYAN'S LAST TWENTY-FOUR HOURS

*"A journalist's portrait of the deceased is often used by the casual reader to decide if the tragic outcome that befell him or her could have happened to us, or, as is often implied to be the case in those killed by police officers, if this tragic fate was reserved for someone innately criminal who behaved in a way we never would."<sup>25</sup>*

On Friday night, July 26, 2013, Ryan saw Brittany Lee as she headed out with some friends. Brittany was his girlfriend and the mother of his eighteen-month-old daughter, Neriah. Ryan hung close to home that night because he was scheduled to work on Saturday. On July 27, Ryan got up and dressed for work. He wore a white t-shirt, new black pinstriped shorts, and his wooden cross around his neck. He wore high tops and his hair was in his signature braids. He had his cell phone for work and his personal flip phone, which he had owned since high school. The ringtone was "My Last 2 Dollars," which reflected Ryan's frugal spirit. Ryan picked his father up, as he did six days a week, and they drove to work together. His dad and step-mother owned a dry cleaner, and Mr. Stokes had worked in the dry cleaning business every day since he was thirteen years old. Ryan had been working in business full-time for five years. On the last day of his life, Ryan drove the delivery truck. He moved clothes from the stores to the main location, where the clothes were dry-cleaned. He saw customers. He was upbeat and looking forward to his day off.

Ryan arrived home that evening after work. Ryan, his older sisters, and their kids all lived with their mom and step-father. His sister, Tosha, arrived

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25. LOWERY, *supra* note 19, at 36.

home from Research Medical where she worked and his sister Crystal arrived home from her job at Mazuma Bank. The Stokeses had dinner as a family, then Ryan played computer games with his eight-year-old nephew, Brian, and then with his mother. Narene reported they had fun. She recalled, "I watched him walk out the door to hang out with his friends. He was happy. Never in a million years did I think that I would never see him walk back in the front door. That is the night my life changed forever."

Ryan's friend, Kenny Cann, picked him up that evening. Kenny had known Ryan since middle school. Their friendship centered around basketball. In high school, Kenny gravitated toward a "street" crowd. This created a gap in their friendship, which lasted throughout high school. Kenny struggled to get back on track after high school, and about a year before Ryan's death when Kenny asked for Ryan's help, Ryan quickly accepted his friend back into his life. Kenny went to work at Cash America, as a customer service representative. He saw Ryan several days each week.

Ryan was planning a family trip to Florida. The Stokes family was scheduled to leave the first week of August for Orlando. Kenny was going to go with Ryan's family and everyone had been saving for the trip. Ryan had rented vans, so his sister and their kids could afford to go to the family reunion. Ryan wanted to take his nephews and niece to experience Disney World. By all accounts, Ryan was a frugal guy, and with the trip ahead, he was not spending any money on July 28, 2013.

Tyrone Tanner, one of Ryan's good friends, got a call from Ryan that night, but he was tired from work and did not feel like going out. He invited Ryan to stop over and play video games. Ryan and Kenny never dropped by. Ryan called his friend Lover to offer his support to his friend who was comforting his girlfriend who had recently lost her brother.

Later, Kenny and Ryan dropped by the Outley house. Ollie Outley was also a friend of Ryan's from high school. They had played on the varsity basketball team together. They had played in other city-wide basketball leagues over the years. Ollie was the father of two young children. He worked full-time at an ammunition factory in Grandview, and he picked up overtime shifts every week. He had had the same job for more than seven years. On Saturday, July 27, 2013, Ollie and his girlfriend, Jeree, went out for dinner. Jeree had to work on Sunday, so when they got home, she was in for the night. Ollie did not work on Sunday, so when he got home, and his brother and friends wanted to drive downtown to the Kansas City Power & Light entertainment district (KCP&L) for a few hours, he was game. Ryan and Kenny came by Ollie's house, and decided to tag along with the group. The group went downtown in three cars. Ollie and Ryan rode in Ollie's red Monte Carlo.

Kansas City Power & Light was about ten or fifteen minutes from their homes. They parked in the parking lot they usually used when they went to

KCP&L. The lot was on McGee, a block east of the bars and restaurants that make up the entertainment district. They arrived at KCP&L well after midnight. They had plenty of time to walk around, and see people, before last call. The bars required cover charges, and the drinks were expensive. Ryan and his friends went to walk around the perimeter of the district to visit with people they knew.

Several of Ryan's friends saw him that night. Stanley Taylor was outside one of the bars with his "Greek" friends when Ryan walked up. Ryan stopped to talk with Stanley for maybe thirty minutes or so. Stanley reported that Ryan was sober, and that he was in a good mood. Ryan ran into his friend, Corey Worsham, a bouncer at Johnnie's Tavern. They talked for a while too. He saw another friend named DeAndrea Chanel. He ran into a number of girls he knew, including Lover's sister, Frankie Dorch, as they walked around. Ryan and his friends were at KCP&L that night to see people and have a few laughs. Ironically, they chose the entertainment district because it was a safe venue to hang out in Kansas City, with its sizable police presence.

### III. KCPD POLICY: HOT SPOT POLICING

In 2012, as Kansas City Police Chief Forte entered office, he initiated "hot spot" policing as a featured strategy for the Kansas City Police Department under his command.<sup>26</sup> In 2013, all officers, regardless of assignment, were required to take twenty shifts a year in "hot spots."<sup>27</sup> The training for officers in non-patrol assignments focused first on technology, teaching officers who are not on patrol how to use the technology in their patrol cars.<sup>28</sup> After Ryan's death, the "hot spot" program was expanded to include more officers and additional training.<sup>29</sup> Meetings before "hot spot" shifts focused on intelligence:<sup>30</sup>

Intelligence-led policing focuses on using data to identify crime "hot spots." When a "hot spot" is identified, police implement a variety of targeted strategies to reduce crime, including zero tolerance, stop and frisk, and other crackdowns. This method of policing grew in popularity following the attacks on September 11, 2001, when police departments became focused on identifying and responding to threats to public safety, shifting focus away from more community-oriented approaches. By directing resources into a

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26. Tony Rizzo, *As Chief, Darryl Forte Has Been 'A True Agent of Change' for the Kansas City Police*, KAN. CITY STAR (Oct. 23, 2014), <http://www.kansascity.com/news/local/article3337619.html> [<http://perma.cc/68VH-JKWA>].

27. *Hot Spot Policing Undergoes Changes*, THE INFORMANT at 1 (Jan. 2014), <http://kcmo.gov/police/wp-content/uploads/sites/2/2013/12/NewInformantJanuary.pdf> [<https://perma.cc/4R6S-A37D>].

28. *Id.*

29. *Id.*

30. *Id.*

community, intelligence-led policing can support community improvements and leave some residents feeling safer. However, if instituted without the involvement and support of the community, it may also create distance between the police and the people they serve. Dr. Novak explained that emphasizing the law enforcement function of police and “relegat[ing] citizens to ancillary positions within public safety activities” may exacerbate mistrust between officers and the communities they police. These strategies have also been criticized for contributing to high incarceration rates, especially among black and brown communities that are more heavily targeted; lessening the focus on relationships and causing people to be treated more like numbers; and threatening people’s civil liberties when these strategies are applied broadly.<sup>31</sup>

#### IV. JULY 28, 2013: THE CORNER OF 13TH AND GRAND

On July 27, 2013, Officer William Thompson and Officer Tamara Jones were assigned to the Research and Development Unit.<sup>32</sup> They worked behind a desk five days a week.<sup>33</sup> Officer Thompson had been in this R&D assignment for seven years prior to this shift. On Saturday, July 27, 2013, the officers were on a “special assignment” as part of the hot spot policing program.<sup>34</sup> They reported to the Central Patrol Division at 6 p.m.<sup>35</sup> At the end of the shift, they volunteered for overtime and were sent to the KCP&L to assist with patrols as the entertainment district closed for the night.<sup>36</sup> The Power & Light district, which attracted a diverse population, was within a designated “hot spot.”<sup>37</sup> The police presence in the area was heavy.

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31. MO. ADVISORY COMM. TO THE U.S. COMM’N ON CIVIL RIGHTS, THE IMPACT OF CMTY./POLICE INTERACTIONS ON INDIVIDUAL CIVIL RIGHTS IN MO. 29 (June 2016), [http://www.usccr.gov/pubs/MOPoliceRelationsReport\\_Publish.pdf](http://www.usccr.gov/pubs/MOPoliceRelationsReport_Publish.pdf) [<https://perma.cc/SBV8-CMUB>] (citations omitted) (alterations in original).

32. Pl.’s Am. Compl. at ¶ 76, *Stokes v. K.C., Mo., Bd. of Police Commissioners*, No. 4:16-CV-00843-BCW (W.D. Mo. Sept. 9, 2016); *see also* Def.’s Answer to Pl.’s Am. Compl. at ¶ 76, *Stokes v. K.C., Mo., Bd. of Police Commissioners*, No. 4:16-CV-00843-BCW (W.D. Mo. Oct. 4, 2016); *see also* Statement of William Thompson 1, July 28, 2013 (on file with author).

33. Statement of William Thompson 1, July 28, 2013 (on file with author).

34. Pl.’s Am. Compl. at ¶ 76, *Stokes v. K.C., Mo., Bd. of Police Commissioners*, No. 4:16-CV-00843-BCW (W.D. Mo. Sept. 9, 2016).

35. *Id.*; *see also* Def.’s Answer to Pl.’s Am. Compl. at ¶ 76, *Stokes v. K.C., Mo., Bd. of Police Commissioners*, No. 4:16-CV-00843-BCW (W.D. Mo. Oct. 4, 2016); *see also* Statement of William Thompson 1, July 28, 2013 (on file with author).

36. Certificate of Commendation for Officers Tamara Jones & William Thompson (on file with author).

37. *See* Statement of William Thompson 1, July 28, 2013 (on file with author). For a discussion of how race, class, and sexuality have shaped policy at Kansas City’s Power and Light District, *see* Stefan Vogler, *Power and White: Race, Class, and Sexuality in Kansas City’s Urban Renewal*, UNIV. OF KAN. (2012), [https://kuscholarworks.ku.edu/bitstream/handle/1808/10452/Vogler\\_ku\\_0099M\\_11974\\_DATA\\_1.pdf?sequence=1&isAllowed=y](https://kuscholarworks.ku.edu/bitstream/handle/1808/10452/Vogler_ku_0099M_11974_DATA_1.pdf?sequence=1&isAllowed=y) [<https://perma.cc/4Q7K-W2XA>].

Bike officers Villafain, Sandifer, and Lutz were stationed on Grand when the bars pushed the final patrons out onto the sidewalks.<sup>38</sup> The sidewalks were crowded. Ryan, Ollie, and Kenny were headed back to their cars at 12th and McGee. They walked north on Grand to 13th Street. Another group of young men headed out of a bar where they had been for hours, celebrating one man's twenty-first birthday. They came to the area in cabs, intended to drink, and planned to head home in cabs. Before the two groups could reach their destinations one man altered the course of many lives. Twenty-one-year-old Jordan Miller was drunk. He left the bar and in an instant realized he did not have his iPhone. Miller explained to a detective later that morning, "We were on our way out of the bar, and trying to find a cab. And I'm pretty sure I dropped my phone on the sidewalk and someone picked it up."<sup>39</sup> Impulsively, Miller recklessly accosted Ollie Outley as he walked by, "Hey man you stole my phone."<sup>40</sup> Surprised by the drunk man's accusation, Ollie responded forcefully, "I did not take your f\*\*\*ing phone."<sup>41</sup>

The encounter was on the corner of 13th and Grand. Just as the accusation was made, a young man, unrelated to either party on the corner, began to record on his cell phone. In twenty-four seconds, he captured the short-lived argument. The cell phone video shows a mixed-race crowd on the corner.<sup>42</sup> First, we see Kenny Cann, tall and lean, wearing a white t-shirt, step away from the argument. Next, we see Ollie, in a grey Nike shirt, engaged in the argument. He steps into the crowd toward his accuser. In response, you hear someone say "give him his phone" several times. The video captures a young white man push Ollie, a young black man. Ryan appears between the groups. He has a white t-shirt and is wearing a wooden cross. His expression shows concern. Like an athlete, he begins to guard his friend, scanning the accusers, and taking a position like a guard in basketball between the opponents. As a man in a ball cap pushes Ollie, Ryan pushes one of the aggressors away. Ryan's hands are out and empty.

At 2:56 A.M., in response to this thirty-second "disturbance," Officer Villafain hit the young people on the corner with pepper spray. The cell phone camera captures Ryan between the two groups with his arms extended when the pepper spray is used in combination with a command to disperse. In

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38. See Statement of Albert Villafain, 1–2, July 28, 2013 (on file with author); Statement of Joshua Sandifer 1–2, July 28, 2013 (on file with author); see Statement of Darin J. Lutz 1–2, July 8, 2013 (on file with author).

39. Police Interview with Jordan Miller and Bret Budke, Witnesses, Kansas City Police Department (Jul. 28, 2013) at 0:39 (on file with author).

40. See Incident Report 13-53360, 10, July 28 2013 (on file with author).

41. See *id.*

42. The narrative of the cell phone video is based on solely on the author's viewing of the video. All errors and omissions belong to the author.

response, Ryan, Kenny, Ollie and others jogged diagonally across Grand toward their original destination, the parking lot a block east.

V. DASH CAM VIDEO<sup>43</sup>

| JULY 28, 2013<br>DASH CAM TIMES  | PATROL VEHICLE FACING NORTH AT<br>13TH AND GRAND   |
|--|--|
| 2:56:53 AM<br>Ryan jogs across intersection                                  | Several AA men jog diagonally across the intersection from the west corner to the northeast corner. Ryan Stokes is among the young men jogging across the intersection. He is wearing a white T-shirt and is heavy set. <i>Unarmed.</i>            |
| 2:57:21 AM<br>Ryan twenty-five seconds ahead                                 | B.P.O. Villafain enters the frame from the west with Jordan Miller (blue shirt) and Brett Budke (multi-colored shirt). Villafain <i>walks</i> across the intersection from west to east with Miller & Budke. The men are pointing east up 13th St. |
| 2:57:32 AM<br>Ryan is thirty-nine seconds ahead                              | B.P.O. Villafain <i>walks</i> east and out of the camera frame.  |
| 2:58:27 AM<br>Ryan is shot ninety-one seconds after he headed to Ollie's car | People on the northeast corner of 13th & Grand duck & move west (in response to gunfire).  |

A patrol car sat empty at the corner of 13th and Grand looking north. The dash cam video was running. The video captures young people as they jog away from the pepper spray. Ryan is among the group jogging across the intersection. Ollie and Kenny also jog away. Kenny felt the OC spray on his clothes, and Ollie's eyes were irritated by the spray. After Ryan, Kenny, and Ollie leave the frame, Miller, Budke, and Officer Villafain enter the frame. They are walking east in the middle of the intersection. Miller and Budke can be seen pointing up 13th Street. As they reach the east corner, Villafain stops

43. The dash cam video is on file with the *Saint Louis University Law Journal*. Part V reflects the author's description of that video as supplemented by the author's knowledge from conversations with individuals involved in the events and from her position as attorney for the plaintiff in *Stokes v. Kansas City Bd. of Police Commissioners*, Case No. 4:16-cv-00843 (W.D. Mo.).

to call some other cops over. Miller and Budke leave the camera frame, headed east up 13th Street ahead of the officers. After Ryan was shot and killed, Officer Villafain wrote that the complaining witnesses, Miller and Budke “began to chase after the subjects to positively identify them . . . .”<sup>44</sup>

Less than a minute later, people at on the northeast corner of 13th and Grand duck and scatter. Officers begin to appear on camera sprinting east to McGee. This is the moment Ryan was shot twice in the back by Officer William Thompson. Ryan was facing south when he was shot from behind. Ryan stood in front of his friend’s car when shot. He crashed heavily to the ground as the bullets tore through his body.<sup>45</sup>

The officer assigned to the patrol car facing north on Grand is filming the last moments of Ryan’s life. After Ryan is shot, the officer jumps into his car, turns right onto 13th Street, and then left onto McGee. On McGee, he stops mid-block, his dash cam picks up yelling coming from the parking lot. The officer swings his patrol car around, capturing Miller and Budke kneeling just outside the parking lot. He stops his patrol car. Next, we see Melvin Roberts, a young black man, enter the frame in a navy t-shirt. His hands are up. The white officer then enters the frame with his gun out, and to his side. He appears to be talking to Roberts, and ordering him away from the parking lot. Roberts is upset. His cousin reasons with him and urges him to follow the officer’s order to leave the area. Others on the sidewalk are slower to respond to his order to leave McGee, and the officer suddenly walks quickly and aggressively toward the young adults backing them south on McGee. These young people rushed away are witnesses who are never interviewed.

#### VI. “SHOTS FIRED, SHOTS FIRED . . . . WATCH YOUR CROSSFIRE MAN!”

Thirty-nine seconds after Ryan headed up 13th Street, P.O. Villafain initiated a sequence of events, which ended with Ryan’s death. After his complaining witnesses headed up 13th Street, he signaled other officers to

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44. Incident Report 13-53360, 6, July 28, 2013 (on file with author).

45. In Ryan’s autopsy, the medical examiner identified an injury to Ryan’s forehead which was consistent with hitting his head on the pavement after he was shot. *See* Report of the Medical Examiner, 4, Sept. 3, 2013 (on file with author). Given the damage caused by the bullet after it entered his body, the ME would testify that if witnesses testified Ryan fell fast and hard after he was shot, this hard fall would be consistent with the injuries caused by the bullets after they entered his body. (The description of potential testimony of the medical examiner is based solely on the author’s knowledge of the case. All errors and omissions belong to the author.)

In depositions taken in May 2017, eyewitnesses Melvin Roberts, Donte Reed, LaShawnda Johnson, and Frankie Dorch described hearing gunfire and watching Ryan fall hard to the pavement. The officer who shot and killed Ryan Stokes told investigators that Stokes was facing away from him (South) when he fired his service weapon three times. He reported Stokes fell to the ground in front of the red Monte Carlo. (The description of these deposition is based solely on the author’s knowledge of the case. All errors and omissions belong to the author.)

follow him. As Villafain initiated a pedestrian check (stop and frisk), Ryan turned north onto McGee, unaware of Villafain's intention. Villafain and the other officers ran or rode to the corner of 13th and McGee. Villafain made his initial dispatch as he watched Ryan turn into the parking lot mid-block.

Ryan was never told to stop. Ryan turned onto McGee to get to the parking lot without any idea P.O. Villafain had initiated a "foot pursuit." Midway up the block on McGee, Frankie Dorch was talking to sisters Lashawnda & Latoya Johnson, Melvin Roberts, and Donte Reed. They had stopped to talk in front of 1222 McGee. As Donte flirted with Frankie, Melvin saw Ryan coming up the street. He recognized him from basketball. He nodded as Ryan went by him. Frankie also saw him and recalled he was holding his pants up with one hand as he shuffled by. Melvin did not have the impression Ryan was "running" away from anything or anyone. Frankie thought of Ryan as a brother and felt she should follow him. She began to run behind him until an officer pulled up beside her and asked "why are you running." Frankie replied "that is my brother."

As Officer Villafain reached the corner at 12th and McGee, he looked north and alerted dispatch. "Foot pursuit. Two black males, white t-shirts headed north into alley 12th and McGee. Suspects in a stealing."<sup>46</sup> It was 2:58.45 A.M. Villafain was out of breath when he made the dispatch. The dispatcher asked him to repeat his location. Another officer calmly repeated, "North into an alley at 12th and McGee."<sup>47</sup> Ryan is turning into the parking lot mid-block at the time dispatch is alerted. Seconds later, these officers ran by 1222 McGee where Melvin, Donte, Frankie, and the other girls were talking. Until the officers turned into the parking lot, it was not apparent to the young people they passed why they were running north on McGee. Melvin reported that the officers were not yelling at anyone to stop. Melvin reported that literally seconds after Ryan passed him, three shots rang out. As the shots were fired, Villafain yells into the radio, "Shots fired shots fired . . . watch the crossfire man!"<sup>48</sup> Twenty seconds had ticked away between Villafain's initial dispatch and the gunfire which tore into Ryan's back, sending him crashing to the pavement.

Melvin instinctively moved toward the entrance of the parking lot, where Ryan had turned in. He tried to run to Ryan, but was pushed away by officers at gunpoint. Frankie had followed him into the lot and was screaming. She was trying to get to Ryan. She was also ordered away by the officers, who pointed

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46. The narrative of the dispatch transcript is based solely on the author's listening of the recording. All errors and omissions belong to the author.

47. The narrative of the dispatch transcript is based solely on the author's listening of the recording. All errors and omissions belong to the author.

48. Statement of Albert Villafain 1, July 28, 2013 (on file with author); Investigative Report 1, Aug. 7, 2013 (on file with author).

guns at her. In response to Ryan's friends who tried to reach him after he was shot, P.O. Villafain called for a car to deal with the group at 1222 McGee identified as the friends of the victim who got shot.<sup>49</sup> It was the only time the police would ever refer to Ryan as a victim.

At the moment of the shooting, the bike cops entering the south end of the lot have no idea who is firing. As one officer secures Kenny, who entered the parking lot just after Ryan, another officer runs to Ryan. He sees the shooter, a uniformed cop who had entered the lot from the North, and he yells at him, "Did he have a gun?"<sup>50</sup> His question is answered as he pulls Ryan's hands out from under his body, rolls him over, and sees that Ryan was not armed, but now critically wounded.<sup>51</sup>

Twenty-four seconds before Ryan is shot, P.O. Villafain dispatches "foot chase . . . 2 black males, white tee shirts . . . suspect of a stealing . . . alley towards 12th and Grand."<sup>52</sup> In response, two uniformed officers on "special assignment" jump out of their patrol car, which was parked on 12th Street, across from the parking lot Ryan entered to get to Ollie's car. P.O. William Thompson and his partner Tamara Jones were assigned to patrol the parking lots at 12th and Grand.<sup>53</sup> Thompson says he took four to five steps toward McGee when saw a black male come "around the corner of a building in the parking lot holding a gun in his right hand . . ."<sup>54</sup> Thompson would have been a half a block north of Ryan. Ryan stepped to Ollie's car, which was backed into its spot. Ryan was facing south as Thompson entered the lot from behind.

Thompson drew his weapon and ran south into the parking lot. Thompson later reported that he was shouting "get down" and "[d]rop the gun."<sup>55</sup> No one, including his partner, heard him say anything other than "get down" before he fired on Ryan. Thompson admits that before he shot his service revolver, Ryan was facing away from him, both when he reached the car and when Thompson fired his weapon.<sup>56</sup> Thompson never saw Ryan point a gun at anyone. There was no stand-off.

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49. Investigative Report 2, Aug. 7, 2013 (on file with author).

50. Statement of William Thompson 1–2, July 28, 2013 (on file with author); *see also* Daniel Boothe & Mike McGraw, *Official Reports About The Shooting of Ryan Stokes Raise More Questions Than Answers. Here's Why.*, FLATLAND (July 30, 2015), <http://www.flatlandkc.org/news-issues/official-police-story-shooting-ryan-stokes-raises-doubts-why/> [<https://perma.cc/YS26-3PLJ>].

51. Boothe, *supra* note 50.

52. Investigative Report 1, Aug. 7, 2013 (on file with author).

53. Statement of William Thompson 1, July 28, 2013 (on file with author).

54. *Id.* at 1–2.

55. *Id.* at 2.

56. *Id.* at 2–3.

P.O. Jones was behind Thompson when she entered the lot from the North.<sup>57</sup> She did not see Ryan with a gun.<sup>58</sup> She heard P.O. Thompson yell “get to the ground” when Ryan was at the red car, and once again before he used deadly force against this young man. She did not hear any other commands. She did not give any commands, and she did not fire her weapon.<sup>59</sup>

Officers moving into the lot from the South shouted at Thompson, “Did he have a gun?” As Ryan was handcuffed and rolled over, the officers realized the young man bleeding out in front of them was unarmed. Alarmed by the announcement that the man he just shot was unarmed Thompson began to look for a gun. Donte Reed reported in his May 2017 deposition that he saw this officer, and the bike cop who had ordered him out of the parking lot, open the front driver’s door of the red Monte Carlo and with flashlights inspect the interior of Ollie Outley’s driver’s area. Ollie had a gun he legally owned in the car. A gun, he testified in his May 2017 deposition, which never left his car that night. After the officers went into the car with their flashlights they announced they had found a Glock 22 on the driver’s seat.<sup>60</sup>

Thompson told P.O. Oxler that he saw Ryan with a gun.<sup>61</sup> Ryan’s path to his car would have been obstructed from Officer’s Thompson’s view by cars parked in the lot. His opportunity to view Ryan’s hands would be seconds only as Ryan moved between the end of one car to the driver’s side of Ollie’s car steps away.

Five or so minutes after Ryan was shot and before an ambulance had arrived, P.O. Oxler, a uniformed officer, is heard on the dispatch tape asking where to put the media.<sup>62</sup> Officer Oxler then requests a case number for *Assault of a Law Enforcement Officer*.<sup>63</sup> In the space of minutes, Ryan had gone from victim to bad guy, and P.O. Thompson had gone from a man who had made a terrible mistake to the victim of a crime. This is the beginning of the false police narrative of Ryan’s death. When the media arrived, the KCPD media officer, Tye Grant, painted a picture of a thief and/or a thug. He made P.O. Thompson the hero. When this narrative appeared in the news, Ryan’s family was further devastated.

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57. Pl.’s Am. Compl. at ¶ 90, *Stokes v. K.C., Mo., Bd. of Police Commissioners*, No. 4:16-CV-00843-BCW (W.D. Mo. Sept. 9, 2016).

58. The narrative of P.O. Jones described in the following two paragraphs is based solely on the author’s knowledge of the case. All errors and omissions belong to the author.

59. Statement of William Thompson 2, July 28, 2013 (on file with author).

60. Incident Report 2, July 28, 2013 (on file with author); Statement of William Thompson 2, July 28, 2013 (on file with author).

61. Incident Report 1–2, July 28, 2013 (on file with author); Statement of William Thompson 1, July 28, 2013 (on file with author).

62. Investigative Report 3, Aug. 7, 2013 (on file with author).

63. *Id.*

The media officer turned the story over to the media who obliged him by printing false stories about the man the police shot and killed. In his recent book, Wesley Lowery helps us see how the police spin the narrative after an officer involved shooting:

We focus on personal details of the dead not only because readers want to know, but because we in the media do, too. We believe if we can somehow figure out the character and life of the person at the center of the story, we can somehow understand what happened that day. We fall into the fallacy of believing we can litigate the complicated story before us into black-and-white binary of good guys and bad guys. There are no isolated incidents, yet the media's focus on the victim and the officer inadvertently erases the context of the nation's history as it relates to race, policing, and training for law enforcement. And by focusing on the character of the victim, we inadvertently take the focus off the powerful and instead train our eyes and judgment on the powerless.<sup>64</sup>

## VII. THE INVESTIGATION WORKS TO DEMONIZE RYAN AND OLLIE OUTLEY

Jordan Miller sat down for his interview with Detective Finley ninety minutes after Ryan was shot and killed.<sup>65</sup> An officer's dash cam video captured Mr. Miller crouched along the fence outside the parking lot minutes after Ryan was shot. He was hunkered down with his cousin, Bret Budke. An officer on the scene, but off duty, later described these two men as "extremely intoxicated."<sup>66</sup>

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64. LOWERY, *supra* note 19, at 36.

65. Police Interview, *supra* note 35, at 0:28.

66. Boothe, *supra* note 50. In May 2017, Greg Powell appeared for his videotaped deposition at the parking lot where Ryan Stokes was shot and killed and he provided the following testimony:

Powell was off duty on July 27–28, 2013. He had come down to the Power & Light District to meet friends. After the bars closed, he made his way to his car which was located on McGee, between 12th and 13th Streets. As he walked to the lot, he saw a group of white men, one was so intoxicated he was bumping into other people on the sidewalk. Powell told the man's friend that he ought to get the drunk man home before he caused some disturbance.

A few minutes later, Powell was pulling out of the parking lot on McGee when Ryan Stokes ran past his SUV into the lot. He did not see any weapon in Ryan's hands. His window was down and so was his radio. He heard no commands by any police officer. Within ten seconds, he heard gunfire which came from the north end of the same parking lot. After the gunfire, he saw the same two white men he had talked to in the area of 13th and Grand come up and crouch along the fence. The men were intoxicated.

The description of Powell's deposition is based solely on the author's knowledge of the case. All errors and omissions belong to the author.

As Miller sat for his interview, he was visibly hungover.<sup>67</sup> He looked tired. He did not appear upset about what he had witnessed. The detective investigating the stealing allegation asked Miller, “What happened?”<sup>68</sup> Miller explained, “We were on our way out of the bar, trying to find a cab. Pretty sure I dropped my phone on the sidewalk and someone picked it up.”<sup>69</sup> Miller began to describe the phone as a piece of group property: “our phone” he repeated throughout his story.<sup>70</sup> He “knew he had our phone,” he told the detective.<sup>71</sup> Miller admitted that after he told Officer Villafain his phone was stolen, he and his cousin took off up 13th Street after his phone.<sup>72</sup> As they ran up 13th Street, they ran past Ollie, the man he had accused moments earlier. The police initiated a “foot pursuit” based on this man’s allegation.<sup>73</sup> Miller and Budke turned left onto McGee, ahead of the cops, and a half block or more behind Ryan. Prior to the explosion of gunfire, Miller had not heard any officer command. Miller reported to Detective Finley that, “We found a cop and he kind of followed us and then we saw a shooting, did not really see a shooting, we heard a shooting.”<sup>74</sup>

Next, the detective interviewed Brett Budke. Budke was more alert, but his affect was incongruent with the serious nature of the events that led to this interview. Budke admitted that he was drinking with his cousin and his cousin’s friends that night.<sup>75</sup> He described one buddy as “hammered” and admitted they were all drunk.<sup>76</sup> His first indication that there was an issue was when he heard his cousin yell, “Hey, that guy took my phone!”<sup>77</sup> Budke told Detective Finley, “I have never been in a fight in my life,” and “I’m not tough by any means.”<sup>78</sup> He admitted his friend pushed one of the black guys, but said, “He’s not tough.”<sup>79</sup> Budke admitted several times that he did not see anyone take Miller’s phone.<sup>80</sup> Budke repeated again and again that they were all pretty drunk, and he suggested that the black guys “weren’t up to any good.”<sup>81</sup>

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67. The visual description of Miller is based solely on the author’s viewing of the video. All errors and omissions belong to the author.

68. Police Interview, *supra* note 35, at 0:39.

69. *Id.*

70. *Id.* at 0:58.

71. *Id.* at 2:05.

72. *Id.* at 3:21.

73. Statement of Daniel Straub 2, July 28, 2013 (on file with author).

74. Police Interview, *supra* note 35, at 1:17.

75. *Id.* at 6:47.

76. *Id.* at 8:57, 11:43.

77. *Id.* at 7:12.

78. *Id.* at 7:39, 9:45.

79. Police Interview, *supra* note 35, at 11:28.

80. *Id.* at 9:27, 11:02.

81. *Id.* at 9:20.

He recounted finding a Hispanic officer on a bike (the officer was on foot).<sup>82</sup> He admitted that he went up 13th Street with his cousin in pursuit of the black guys, following the officers (they went up 13th Street first).<sup>83</sup> He heard six gunshots (there were three).<sup>84</sup> He did not hear any police commands before he heard gunfire.<sup>85</sup>

When asked if any of the young men “who took the phone” displayed a weapon, Budke said “no.”<sup>86</sup> After Ryan was shot, the police looked for the “lost iPhone” and found that Ryan carried a flip phones and that Kenny’s iPhone belonged to Kenny. Later, they searched Ollie’s phone and the search revealed nothing which incriminated any of the young black men.

After the detectives questioned the complaining witnesses, they next turned their attention to Kenny Cann. Kenny came into the interrogation praying his friend had survived. Mid-way through his meeting with the detectives they callously told him they could not say who had died, but that there had been a death.<sup>87</sup>

Despite the failure to establish that Mr. Miller’s phone had been stolen, the detectives tried to convince Kenny Cann, not only that there had been a theft at the corner of 13th and Grand, but that it had been at gun point.<sup>88</sup> They lied about video, in which they claim they saw the whole thing, and they lied about video which showed Ryan carrying a gun. Kenny conceded that if they had video of Ryan with a gun, then he must have had a gun, but Kenny also told the detectives repeatedly that Ryan simply did not carry a gun, ever.<sup>89</sup>

Next the detectives turned their attention to Ollie Outley. Ollie was the target of the theft allegation, the owner of the red Monte Carlo, and the owner the gun found in his car.<sup>90</sup> Ryan had ridden with Ollie to Power & Light that night. In an effort to maintain the narrative that P.O. Thompson’s use of force was justified, they opened a felony murder investigation. Ollie Outley was the target. Felony murder can be charged if during the course of a felony (theft) someone is killed.<sup>91</sup> Even if the killer was Thompson, they could hold the thieves responsible. Only, the investigation to date had failed to establish a felony. The objective was to put a gun in Ryan’s hand.

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82. *Id.* at 8:01.

83. *Id.* at 8:11.

84. Police Interview, *supra* note 35, at 8:30.

85. *See id.* at 8:15.

86. *Id.* at 8:47.

87. Investigative Report 33, July 28, 2013 (on file with author).

88. *Id.* at 14, 30.

89. *Id.* at 47.

90. *Id.* at 37–38.

91. *Felony Murder Doctrine*, LEGAL DICTIONARY, <http://dictionary.law.com/Default.aspx?selected=741> [<https://perma.cc/Q29X-7DR5>].

Ollie came to the station voluntarily. He sat down with the detectives willingly. He did not know they had opened a murder investigation or that their intent was to charge him with his friend's murder. The detectives read Ollie his rights. The detectives then told him they "knew the truth" and wanted to see if he "would tell the truth."<sup>92</sup> Again, they lied and told him that they had looked at hours of video footage and they knew he had stolen the iPhone. Ollie denied the accusation again and again. He told them if they had video, they should show him.<sup>93</sup> The detectives, of course, could not show him. When Ollie continued to deny the theft accusation they tried one last tactic. They told him he was under an investigative hold and could not leave.<sup>94</sup> They asked to search his phone, which he permitted.<sup>95</sup>

There was one fact at issue. Did Ryan have a gun that night? Had Ryan carried Ollie's gun down to the Power & Light? Was Ryan carrying the gun when he entered the parking lot seconds before he was shot? It was Ollie's gun. The gun was found by police in Ollie's car. Yet, the police never asked Ollie even one question about his gun. If they had, he would have told them that he was the legal owner of the gun. He would have told them he carries a gun for protection. He would have told them he put the gun in his car that night. Finally, he would have told them that the gun never left his car and that Ryan was not at any time that night in possession of Ollie's gun.

#### VIII. THE POLICE USE A FALSE NARRATIVE TO HONOR OFFICER WILLIAM THOMPSON

On July 28, 2013, the KC Star reported in an article captioned *Police Officer Shoots, Kills Man in Kansas City* that Capt. Tye Grant told them Ryan Stokes had been shot and killed by Officer after the officer was engaged in a stand-off with two armed men.<sup>96</sup> That six men, including Ryan, had robbed two men of a cell phone.<sup>97</sup> That officers had stopped the six men, and two had run.<sup>98</sup> That other officers, in a patrol car, cut off the fleeing men.<sup>99</sup> That the officers saw both men had guns.<sup>100</sup> That the officers ordered the men to drop their guns and only one complied.<sup>101</sup> The second man continued to resist and was shot and killed.<sup>102</sup> Only the investigation revealed that the media officer's

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92. Investigative Report 1, 11, Aug. 15, 2013 (on file with author).

93. *Id.* at 17.

94. *Id.* at 19.

95. Incident Report 1, July 31, 2013 (on file with author).

96. Collison, *supra* note 23.

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

101. Collison, *supra* note 23.

102. *Id.*

reports were unsupported by the actual facts of the shooting. The media officer had wrongfully legitimized the false narrative, magically turning Ryan into a bad man, and Officer Thompson into a hero.

In August 2014, shortly after the one-year anniversary of Ryan's funeral at the Zion Grove Baptist Church, Officers William Thompson and Tamara Jones were honored by the Board of Police Commissioners for their work on July 28, 2013.<sup>103</sup> Thompson and Jones were notified that the Awards Committee had approved their nomination for the Certificate of Commendation, which "may be awarded for an exceptional police act which brings credit to the Department and the member, and is highly recognized by fellow officers and citizens as an outstanding accomplishment of police duty. The recipient will receive a certificate and a ribbon."<sup>104</sup>

The minutes from the ceremony stated:

The Certificate of Commendation was presented to Officer Tamara Jones and Officer William Thompson for their dedication and commitment to the performance of their duties. While working in the Power & Light District Officer Jones and Officer Thompson encountered suspects who were being pursued by other officers. One suspect had a handgun pointed in the direction of pursuing officers. Officer Jones and Thompson drew their weapons and told the suspects to drop their weapons and get on the ground. One of the suspects refused to drop his weapon and Officer Thompson was forced to fire his weapon at the suspect, fatally injuring him and ending the threat to all officers involved.<sup>105</sup>

The officers were nominated for these service awards, and the process was simplistic. The Awards Committee evaluated, and made a recommendation. The Awards Committee reviewed the recommendation then evaluated all reports and witnesses' testimony. The Chief of Police reviewed the Awards Committee's decisions for final disposition. The Media Unit scheduled the presentation of the award.

The reports, video, audio and witness statements from the night Ryan was shot and killed by P.O. William Thompson do not corroborate the official police narrative, which was used to give the award.<sup>106</sup>

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103. Certificate of Commendation Officers Tamara Jones & William Thompson, Aug. 26, 2014 (on file with author).

104. Policy Series 600: Awards and Assistance to Members 610- Commendation and Honor Awards 2, July 2, 2015 (on file with author).

105. Minutes of the Board of Police Commissioners Meeting, Aug. 26, 2014 (on file with author).

106. Christine Vendel, *Man Shot by Police Had Just Tossed His Gun Away*, KAN. CITY STAR (July 31, 2013), <http://www.kansascity.com/news/local/article324232/Man-shot-by-police-had-just-tossed-his-gun-away.html> [<https://perma.cc/ACZ7-SPXX>]. In our request to settle the case, we asked the officers to return the awards and, through counsel, they have expressed a willingness to do so. This happened in December 2016 and is pending at the time of publication.

## IX. RESTORATIVE JUSTICE

*“We must not pretend that the countless people who are routinely targeted by police are ‘isolated.’ They are canaries in a coal mine whose deaths civil and literal warn us that no one can breathe in this atmosphere . . . They are the ones who recognize that unlawful police stops corrode our civil liberties and threaten all our lives. Until their voices matter too, our justice system will continue to be anything but.”*

– Justice Sonia Sotomayor<sup>107</sup>

On the third anniversary of Ryan’s death, Narene Stokes-James and Brittany Lee, on behalf of Neriah Lee Stokes, filed a civil rights lawsuit against Officer Thompson and the Kansas City Board of Police Commissioners.<sup>108</sup> After eighteen months of work, it was clear that the only pathway to justice was to file a lawsuit.

When I met Narene, Clarence, Crystal, Tosha, Brittany Lee, and her parents shortly after Ryan’s funeral, they needed information. It is very common that people who have lost a family member to sudden and unexpected violence need two things: 1) to know the truth about the death of the person they love; and 2) a promise that no other family will face they kind of deep pain they are experiencing. The family’s grief was palpable in every meeting that first year. Each meeting brought a little more clarity to the justice they wished for Ryan and for his baby girl, Neriah. What was less clear was whether any justice would be available to them.

The truth is that over the last three decades, the United States Supreme Court has stripped citizens of their rights under the Fourth Amendment. The Fourth Amendment protects citizens from unreasonable searches and seizures.<sup>109</sup> This includes the unreasonable seizure of a person during any contact with police.<sup>110</sup> When an officer violates a citizen’s civil rights through an unreasonable seizure of a person, then he or she may be held to account in civil court.<sup>111</sup> However, the Supreme Court’s trend over the last decade has been too side with the officer’s over their alleged victims, leaving Justice

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107. *Utah v. Strieff*, 136 S. Ct. 2056, 2071 (2016) (Sotomayor, J., dissenting).

108. Ian Cummings, *Mother Files Federal Lawsuit Against Kansas City Police for 2013 Fatal Shooting of Ryan Stokes*, KAN. CITY STAR (July 28, 2016), <http://www.kansascity.com/news/local/article92518992.html> [<https://perma.cc/J632-RB7Y>].

109. U.S. CONST. amend. IV; *Katz v. United States*, 389 U.S. 347, 353 (1967).

110. *See Terry v. Ohio*, 392 U.S. 1, 16 (1967); *see also U.S. v. Avery*, 137 F.3d 343, 352 (6th Cir. 1997).

111. 42 U.S.C. § 1983 (2012) (federal statute allowing for civil action against state officials who violate a citizen’s civil rights). The Fourth Amendment principle regarding unreasonable seizures does not apply if the encounter with the police is consensual. If the contact is investigative detention or an arrest—the two other types of encounters between police and citizens—then the principle does apply. *See Avery*, 137 F.3d at 352.

Sotomayor to ask, “[W]hen does the police officer pay the victim who is suffering when the victim had nothing to do with causing the loss?”<sup>112</sup>

In *Tennessee v. Garner*, the United States Supreme Court held that officers may use deadly force if they can show they “reasonably” feared for their safety or for the safety of another.<sup>113</sup> In the *Garner* case, the Supreme Court has effectively sanctioned violence based on lenient suppositions about how a hypothetical officer could have felt in the moment he or she used lethal force. The common man may think police can be held accountable in civil and/or criminal court after they kill a citizen, but the police are cloaked in an armor constructed for them by legislatures and courts. The burden lies with the injured citizen to prove that the use of force was unreasonable.<sup>114</sup>

Furthermore, the law makes an indictment of an officer a rare event. Only those caught on camera, like Michael Slager in South Carolina<sup>115</sup> or the officer who killed Laquan McDonald in Chicago,<sup>116</sup> face criminal charges. Without video footage, the jurors are left with the testimony of the officer alone. In Kansas City, Missouri, the grand jurors, who are asked to consider the facts in an OIS, are first taken to the police academy to experience through virtual reality how a police officer on the street may feel fear, have seconds to react, and therefore, shoot and kill a citizen.<sup>117</sup> In Kansas City, this juror training has had the desired effect. We have had no indictments of any Kansas City Police Officers in over ten years.<sup>118</sup> In the same span of time police have shot and killed more than forty-seven citizens.<sup>119</sup>

In July 2014, a year after Ryan’s death, I invited Ryan’s family into my home so we could find out what they needed. I introduced them to the concept

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112. See *Salazar-Limon v. City of Houston*, 137 S. Ct. 1277, 1282–83 (2017) (Sotomayor, J., dissenting); Transcript of Oral Argument at 4, *Cty. of Los Angeles v. Mendez* (argued Mar. 22, 2017) (No. 16-369), available at [https://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/2016/16-369\\_8nka.pdf](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2016/16-369_8nka.pdf) [<https://perma.cc/7KS2-Z3JT>].

113. 471 U.S. 1, 11 (1984).

114. *Id.* at 26 (O’Connor, J., dissenting).

115. Chris Dixon & Tamar Lewin, *South Carolina Officer Faces Federal Charges in Fatal Shooting*, N.Y. TIMES (May 11, 2016), <https://www.nytimes.com/2016/05/12/us/south-carolina-officer-faces-federal-charges-in-fatal-shooting.html> [<https://perma.cc/T3L5-C2F7>].

116. Steve Mills, Jeremy Gerner, Todd Lighty, Annie Sweeney, Stacy St. Clair & Jason Meisner, *Laquan McDonald Police Reports Differ Dramatically from Video*, CHICAGO TRIBUNE (Dec. 5, 2015), <http://www.chicagotribune.com/news/ct-laquan-mcdonald-chicago-police-reports-met-20151204-story.html> [<https://perma.cc/J2KV-GTFA>].

117. Barbara Shelly, *Dump Jackson County Tradition that Helps Police in Grand Jury Cases*, KAN. CITY STAR (Aug. 6, 2015), <http://www.kansascity.com/opinion/opn-columns-blogs/barbara-shelly/article30363693.html> [<https://perma.cc/MV4M-BUMN>].

118. Barbara Shelly, *Putting Kansas City Police Shootings Under the Spotlight*, KAN. CITY STAR (Dec. 31, 2015), <http://www.kansascity.com/news/local/article52534610.html> [<https://perma.cc/UC3J-4AHW>].

119. *Id.*

of “Restorative Justice” and explained the many ways that the criminal and civil justice systems were ill equipped to provide justice for Ryan. As you might imagine, there were many things the Stokes and Lee families needed. At the top of the list was the “*restoration of Ryan’s identity*.” We agreed that as his daughter grew, she would look for him on the Internet, and it was important that what she found was a true reflection of who Ryan was at the time of his death. We needed to take back what was stolen from him after he was shot and killed by Officer Thompson: his good name.

This single goal led to testimonials, videos, vigils, visits to churches, memorial services, and presentations about his life to the community.<sup>120</sup> Testimony before the Missouri Human Rights Division.<sup>121</sup> Interviews with TV and print outlets.<sup>122</sup> A project by students from the K.C. Art Institute, which supported the protests Narene was nurturing.<sup>123</sup> I watched this very private, quiet mother come out of her shell in an effort to give her child something he had earned: his true identity, that of a good, loving, law abiding family man.

Imagine how it felt when a few weeks later we learned that the officer who had shot Ryan, an unarmed man, in the back had been honored by the Board of Police Commissioner for taking Ryan’s life. It took our breath away. The narrative used to justify the award was false. The Board of Police Commissioners had, it seemed, punished Narene for re-claiming her son’s good name by hanging a medal around the neck of the officer who had shot and killed him.

The list we made in my home in July 2014 was just before Ferguson exploded. The events surrounding Michael Brown’s death opened wounds. Local officials suggested the problems that plagued Ferguson did not exist here, that the gulf between police and citizen was not as wide, trust was not as corrupted. Oddly, to talk to those in power, Narene had to sue those in power. Now that we are all legally compelled to discuss what happened to Ryan, we want everyone to understand our goals. They are: 1) to correct the narrative of Ryan’s death; 2) obtain an apology from the officer and from the KCPD; 3) victim-offender mediation; 4) policy change: notice to next of kin; 5) policy change: create a foot pursuit policy in Ryan’s name; 6) provide Neria an

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120. Barbara Shelly, *Honoring Ryan Stokes and Questioning His Death at the Hands of Kansas City Police*, KAN. CITY STAR (July 23, 2015), <http://www.kansascity.com/opinion/opn-columns-blogs/barbara-shelly/article28453009.html> [<https://perma.cc/QHR2-B6NK>].

121. MO. ADVISORY COMM. TO THE U.S. COMM’N ON CIVIL RIGHTS, A REPORT OF THE MO. ADVISORY COMM. TO THE U.S. COMM’N ON CIVIL RIGHTS 24 (2016).

122. Lara Moritz, *KC Mom Seeks Answers in Son’s Deadly Shooting by Police*, KMBC NEWS (Aug. 27, 2014), <http://www.kmbc.com/article/kc-mom-seeks-answers-in-son-s-deadly-shooting-by-police/3684232> [<https://perma.cc/GR4T-UUT4>].

123. Elisabeth Rentschler, *Family of Man Killed by Police 3 Years Ago Protest for Answers*, KCTV NEWS (Apr. 23, 2016), <http://www.kctv5.com/story/31800202/family-of-man-killed-by-police-3-years-ago-protest-for-answers> [<https://perma.cc/8K2S-9RRM>].

education from K-college; 7) provide compensation to Narene Stokes-James for her pain and suffering; and 8) rescind the medals given to Officers Thompson and Officer Jones.

