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Chief Geoff Jones
Columbia Police Department
600 East Walnut Street
Columbia, Missouri 65201

Dear Chief Jones:

Charges will not be filed as a result of two incidents that occurred on Friday evening, June 1, 2020, at the intersection of Providence and Broadway. Information was submitted by the Columbia Police Department to this office for review. After a review of the investigation conducted by the Columbia Police Department, I have determined the interests of justice do not support charging either the drivers that traveled through the intersection that evening, or the individuals, including two who were injured, who entered the intersection, approached vehicles, and confronted drivers.

The First Incident

In the early evening hours of June 1, 2020, people began to gather in downtown Columbia to protest, as did others around the country, after the death of George Floyd. Shortly after 8:00 p.m., while still daylight, some people gathered near and in the roadway at the intersection of Broadway and Providence. That intersection is one of the busiest in downtown Columbia. At that time, there were a few vehicles parked in lanes of traffic near the intersection. Some people gathered near the intersection, and four were gathered in the north section of the northbound lanes on Providence Road. A few concrete bricks had been placed in the roadway near the intersection. Vehicles continued driving through the intersection, as the traffic signal controlled traffic. There were no vehicles blocking the two southbound lanes of traffic on Providence.

At approximately 8:15 p.m., three vehicles were stopped at a red light in the southbound lanes on Providence Drive. Driver 1, a 50-year-old man driving a blue Dodge sedan was stopped at a red light in the southbound lane on Providence, along with other vehicles. Protestors were gathered near and in portions of the roadway. Some people appeared to be trying to block some of the lanes of traffic.

When the light turned green, Driver 1, along with other drivers, proceeded slowly through the intersection. As Driver 1 got approximately halfway through the intersection, A.K., a 25-year-old woman, walked to the middle of the intersection from the right side of Driver 1's car, and jumped on top of Driver 1's hood as it traveled through the intersection. Driver 1 stopped abruptly and then accelerated through the intersection. A.K. fell off the hood and was struck by the vehicle. A.K. suffered a broken ankle. Driver 1 continued southbound on Providence Road, while a man in a tan SUV with words spray-painted on the back, chased after Driver 1. Driver 1's passenger called 911 to report the incident. Because of the crowd gathered at the intersection, and because they were being chased by another vehicle, they asked officers to meet them at Driver 1's residence.

Officers interviewed Driver 1 at his residence. They also inspected and photographed his vehicle and interviewed his passenger, M.K. Both accounts were consistent, as described above. Officers also tried to speak with other witnesses at the scene, but officers reported that because of the protest and a hostile environment, they did not receive additional information. Investigators subsequently obtained a video recording posted on Facebook that captured the incident.

An officer also spoke to A.K. in the hospital shortly after the incident. A.K. told the officer that she was holding a sign and protesting in the roadway. She stated that as a blue car attempted to pass by the protestors, she stepped in front of the vehicle and fell onto the hood of the car. She said she grabbed onto the hood, and when the vehicle stopped, she fell to the ground and the vehicle ran over her legs as it sped away from the intersection. A.K. suffered injuries to her left ankle and face.

An independent witness, J.C., was also driving a motor vehicle that evening and approached the intersection at the same time as Driver 1. J.C. said that as he stopped, a man with a sign jumped in front of his car and screamed "Fuck the Police." The light turned green, and as J.C. proceeded slowly through the intersection, turning from eastbound Broadway onto southbound Providence, the man with the sign yelled at J.C., "Hit me, motherfucker, hit me." As J.C. turned onto Providence, he looked out his driver's window and saw a woman, later identified as A.K., "jump in front" of a driver

[Driver 1]. J.C. said that later he “saw they [media] were saying that the lady was hit, I’m like, alright, that’s not really exactly what happened.”

J.C. explained that the person who jumped out in front of his car ran to an SUV, which was spray-painted with the message “Fuck the Police.” He said the man “fled” up Providence, cutting against traffic, and chased the blue car, which was the car that A.K. jumped on top of. J.C. described the situation as “very scary.” He said he “had seen a lot on the news about people getting their cars destroyed, and stuff like that, where people are being caught in these protests, so it is a very scary situation.”

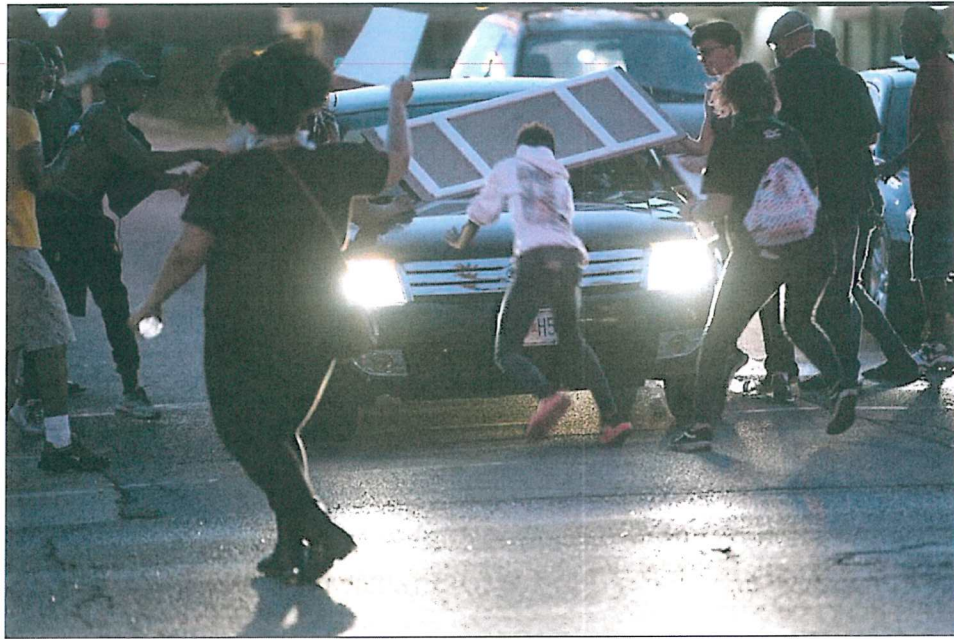
The Second Incident

At approximately 8:50 p.m., about 35 minutes after the incident involving A.K, there was a report of another incident involving a motor vehicle and a protester at the same intersection. Sunset on June 1, 2020, was at 8:28 p.m., but at 8:50 p.m. it was dusk, and the sky was still illuminated. By this time of the evening, more protesters had gathered at the intersection.

Driver 2, a 17-year-old man, approached the intersection driving a black Ford sedan. He was traveling eastbound on Broadway. He was the sole occupant of the car. There were vehicles parked in some of the lanes of traffic at the intersection. No vehicles were blocking the eastbound lane of Broadway that Driver 2 was in. For Driver 2, the lane of travel on Broadway was clear.

As he approached and slowed to a stop, he sounded his horn. When he came to a stop at the intersection, no one was directly in front of his vehicle. Someone immediately placed a large sign on top of Driver 2’s front windshield, covering it. Driver 2 continued to sound his horn. Several people surrounded the vehicle. Two men quickly approached the driver’s side, raised and then swung their arms, and struck the driver’s door with water bottles. One person stood at the rear passenger window, raised an orange traffic cone, and struck the vehicle with the cone.

While that was happening, B.W. walked around the front driver’s side of the vehicle. While his windshield was covered, Driver 2 revved the engine. B.W. then stepped in front of the car. Driver 2 drove through the intersection, striking B.W. A news photographer captured an image:



Driver 2 drove east on Broadway. The man in the same tan SUV that chased Driver 1 from the intersection, who later stated he was A.K.'s boyfriend, jumped in his SUV and chased Driver 2. At the same time, a gun was fired by an unknown person. In response to the gunshot, people can be seen leaving the intersection.

Columbia Police Lieutenant Robert Fox was working in the area. He heard radio traffic about the tan SUV and a reports of a gunshot. Fox saw the tan SUV driving erratically. He pursued the vehicle. He found it stopped next to Driver 2's car in the middle of Broadway, near Hitt street.

Lieutenant Fox saw the driver of the tan SUV standing in the street and shouting at Driver 2, who was seated in his vehicle. Both vehicles were damaged. Lieutenant Fox approached the two drivers. After a brief conversation, Lieutenant Fox had them exchange their names, vehicle, contact, and insurance information. He also gave them the CAD number for the stop.

Lieutenant Fox was not aware at the time that Driver 2 was driving the vehicle that had driven through the group of people standing in the roadway at Providence and Broadway, resulting in injury to B.W. Meanwhile, Driver 2, having provided his name, address, vehicle information, and receiving a CAD number from Lieutenant Fox, believed that Fox stopped him because of the incident at the intersection of Broadway and Providence. Lieutenant Fox had both drivers exchange information, and they left.

Back at the intersection of Providence and Broadway, officers interviewed B.W. She stated she was on the west side of the intersection when a black sedan approached the intersection. She said she asked the driver to turn around, but he refused, and when he refused, she jumped in front of the vehicle and told him to turn around. According to B.W., the driver “flooded it” and struck her. B.W. was evaluated by medics on scene, but B.W. declined any medical attention. B.W. later stated she had a dislocated left shoulder.

On June 4, Driver 2 was interviewed at his home. He stated that he was at the intersection traveling east on Broadway when a group of protestors approached his car, threw water at his car, including through his open window, and that someone put a sign over the front windshield. He said he felt afraid, and that he didn’t know what to do. He also said people were yelling at him to get out of the car. He said he had seen videos of what violent protestors had done, so he became scared and drove through the intersection. He told officers that someone in a vehicle started chasing, so he fled from the intersection but the person chasing him collided with him. Driver 2 said an officer “worked” the crash, and then he (Driver 2) drove home. Driver 2 stated he did not know he hit someone at the intersection. He said he did not call the police because he believed the officer that contacted him when he collided with the vehicle knew he was the driver at the intersection a few minutes earlier.

Officers obtained from social media a video that captured the second incident at the intersection. Additionally, video from ABC 17-KMIZ captured a portion of the incident. B.W.’s mother stated she had video of the incident, but refused to provide it to the Columbia Police Department. She stated that she would only release it through her attorney. A detective contacted the attorney and requested the video, but the attorney has not provided any video or records to the Columbia Police Department.

Conclusion

A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice. American Bar Association, Standard 3-1, Criminal Justice Standards for the Prosecution Function. It is by this standard that the evidence must be evaluated and charging decisions must be made.

Consideration was given to charging the drivers with:

- 1) **Assault in the second degree**, class D felony:

Knowingly causing physical injury to another person by means of a dangerous instrument, OR recklessly causing serious physical injury to another person;

- 2) **Assault in the third degree**, class E felony:
Knowingly causing physical injury to another;
- 3) **Assault in the fourth degree**, misdemeanor;
Recklessly causing physical injury to another, class A misdemeanor, OR purposely placing another in apprehension of immediate physical injury, class C misdemeanor, OR recklessly engaging in conduct which creates a substantial risk of death or serious physical injury, class A misdemeanor;
- 4) **Leaving the scene of an accident**, class E felony:
Operating a motor vehicle involved in an accident resulting in injury or damage to the property of another, and, having the knowledge of such accident, leaving the scene without stopping and giving the following information to a law enforcement officer, or if no officer is in the vicinity, to a law enforcement agency: Name, residence, registration or license number for the vehicle, and operator's license.

Consideration was given to charging the protesters with:

- 1) **Property damage in the first degree** (or the attempt), class E felony:
Knowingly damaging property of another exceeding \$750;
- 2) **Peace Disturbance**, class B misdemeanor:
Unreasonably and knowingly disturbing or alarming another person by (1) threatening to commit a felonious act against any person under the circumstances which are likely to cause a reasonable person to fear that such threat may be carried out, or (2) in a public place purposely causing inconvenience to another person or persons by unreasonably and physically obstructing vehicular or pedestrian traffic;
- 3) **Unlawful assembly**, class B misdemeanor:
Knowingly assembling with six or more people and agreeing with those people to violate any criminal laws with force or violence;
- 4) **Rioting**, class A misdemeanor:
Knowingly assembling with six or more people and agreeing with those people to violate any criminal laws with force or violence, and thereafter, while still assembled, violating any law with force or violence.

First, with respect to the drivers, there is insufficient evidence to prove beyond a reasonable doubt that either driver, under the circumstances they faced that evening, knowingly caused the injuries to the people that confronted them at the intersection.

“Knowingly” is a culpable mental state defined under Missouri law. A person acts knowingly or with knowledge with respect to their conduct or to attendant circumstances when he or she is aware of the nature of his or her conduct or that those circumstances exist; or with respect to a result of his or her conduct when he or she is aware that his or her conduct is practically certain to cause that result. Section 562.016.3 RSMo.

Acting knowingly is acting intentionally. There is insufficient evidence to prove that the drivers intentionally struck the protesters. The drivers’ statements, the statements of others, and the video demonstrate that Driver 1 and Driver 2, along with other drivers at the intersection at the time, were trying to lawfully proceed through the intersection.

Second, with respect to the drivers, their conduct must be evaluated to determine whether it was criminally reckless, as defined by Missouri criminal law. The Missouri Criminal Code provides that a person acts “recklessly” or is “reckless” when he or she consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. Section 562.016.4, RSMo.

Driver 1 was stopped and waiting at the stop light. When it turned green, he, along with another vehicle, proceeded through the intersection. While Driver 1 was in the middle of the intersection, A.K. jumped on the hood of Driver 1’s car. Driver 1 and his passenger’s accounts are buttressed by an independent witness, J.C.

J.C. was stopped at the intersection at the same time as Driver 1. J.C. also described having a person jump in front of his car. That happened while Driver 1 was waiting at the stoplight in the southbound lane of Providence. J.C. was waiting to turn right from eastbound Broadway onto Providence when a person yelled, “Fuck the police,” jumped in front of J.C.’s vehicle, and then said, “Hit me, motherfucker, hit me.”

Even though he was confronted by that man, J.C. proceeded through the intersection. As J.C. turned right from Broadway onto Providence, he saw A.K. jump in front of Driver 1’s car. In fact, J.C. explained that when he heard media reports later that the person was “hit” by a car, he was “. . . like, alright, that’s not really exactly what happened.”

In fact, A.K admitted that she stepped in front of Driver 1’s car. Based on the circumstances and the evidence, the State could not prove beyond a reasonable doubt that

Driver 1's actions constituted a gross deviation from the standard of care that a reasonable person would exercise in the situation.

The conclusion is the same with respect to Driver 2. When he approached the intersection, the eastbound lane on Broadway was clear and unimpeded by any motor vehicle. No vehicles were in front of him blocking his approach to the intersection. No vehicles were blocking his path in the intersection. And no vehicles were in his path beyond the intersection. There were several people standing and walking near the intersection and near the traveling lane on eastbound Broadway. There were also vehicles blocking some of the other lanes of traffic.

Driver 2 came to a stop near the stop line at the intersection. Nearly simultaneously, someone approached Driver 2's car from the front passenger side and covered Driver 2's windshield with a very large sign. The sign covered the windshield. Meanwhile, two men who were near the front driver's side quickly approached the driver's door. The two men each raised their right arms above their heads, and, in an angry and threatening manner, swung them toward the driver. The men struck the driver's side window several times with water bottles in their hands. Driver 2, while the men were striking his driver's window, revved his engine and accelerated through the intersection. When interviewed, B.W. said she asked the driver to turn around, but he refused, and, when he refused, she stepped in front of the vehicle.

When interviewed by officers, Driver 2, explained that he was afraid when he was at the intersection. He said he had seen videos of what violent protesters had done, so he became scared and drove through the intersection. Driver 1 expressed a similar fear when A.K. jumped in front of his car at the same intersection 35 minutes earlier. And a third driver, eyewitness J.C., who was at the intersection during the first incident, also expressed feeling the same fear: It was "very scary" . . . "I had seen a lot on the news about people getting their cars destroyed, and stuff like that, where people are being caught in these protests, so it is a very scary situation."

Driver 2 did rev his engine while stopped at the intersection. That evidence could be viewed as an attempt to threaten or scare the people surrounding his car. It also could be viewed as an attempt to warn protesters that he was going to proceed through the intersection. The latter view is supported by the fact that someone covered the car's windshield, then two other men angrily struck his driver's door, and others gathered near his car and were hitting it. Based on the circumstances, the State could not prove beyond a reasonable doubt that Driver 1's actions constituted a gross deviation from the standard of care that a reasonable person would exercise in that situation.

Missouri law also provides a statutory right to self-defense. Under Section 563.031, RSMo, a person has the right to use force if the person reasonably believes it is necessary to protect himself from what he reasonably believes to be the imminent use of unlawful force by another person. By law, self-defense is measured from the defendant's perspective based on what the defendant reasonably believed at the time of his actions. Whether the defendant's belief turns out to have been true or false does not matter. Instead, self-defense depends on whether there were reasonable grounds that could lead a person in the same situation to believe force was necessary. State v. Smith, 456 S.W. 3d 849, 852 (Mo. banc 2015). When a defendant relies on self-defense, the burden is on the State to prove beyond a reasonable doubt that the person did not act in self-defense. State v. Powers, 913 S.W.3d 138,141 (Mo. App. W.D. 1996).

In this instance, if the drivers reasonably believed they were at risk of being injured by the people that confronted them at the intersection, then they are protected by the right of self-defense. The burden of proof is on the prosecutor to disprove self-defense beyond a reasonable doubt, and we cannot do so in either case.

Finally, with respect to Driver 1 and Driver 2, consideration was given to charging them with leaving the scene of a motor vehicle accident. But the facts do not support that charge.

Driver 1's passenger called 911 as Driver 1 left the intersection. Driver 1 was being chased from the scene by a protester in a tan SUV. Driver 1 identified himself to law enforcement on the 911 call and arranged to meet officers at his residence. He then met the officers at this residence and answered their questions. Driver 1 provided law enforcement with the information required by the statute.

Driver 2 stated that he was unaware that he struck anyone at the intersection and that he did not know he was involved in an accident that resulted in injury. Video demonstrates that B.W. was near the right front of Driver 2's car. However, someone covered Driver 2's windshield with a sign. Driver 2's car was surrounded by people as soon as he came to a stop at the intersection. At least three men approached the vehicle and struck the vehicle with objects. It was at that time that B.W. stepped towards the front of Driver 2's car. As Driver 2 left the intersection and drove east on Broadway, he was chased from the intersection by a man in the same tan SUV that chased Driver 1 from the scene. Seconds after Driver 2 drove through the intersection, a gun was fired. The shot can be heard on a video recording that captured the second incident. The gunshot was immediately reported to Boone County Joint Communications.

Lieutenant Fox, having heard that radio call, saw a vehicle chasing the tan SUV, that was in turn chasing Driver 2, eastbound on Broadway. The tan SUV collided with Driver 2 on Broadway near Hitt Street. Both vehicles stopped in the middle of Broadway. Fox stopped and contacted both drivers, not knowing Driver 2 was the driver that had just struck B.W. a few minutes earlier.

Driver 2, when interviewed later, stated that when Fox stopped him he believed Fox stopped him because he had just driven through the intersection at Providence and Broadway. In fact, Driver 2 can be heard telling Lieutenant Fox that he didn't hit anybody. Driver 2 made that statement in response to the statement by the driver of the tan SUV that his girlfriend had been run over earlier. When Driver 2 said, "I didn't run over anybody," Lieutenant Fox said to Driver 2, "I know, I know you didn't." The driver of the tan SUV repeatedly said he was the boyfriend of A.K., and that she had been struck by a car earlier.

Lieutenant Fox gathered information from both drivers. Driver 2 handed Fox his driver's license and insurance information. Fox radioed Joint Communications and asked that a CAD number be created for the collision. Fox then gave both drivers the CAD number. Fox told the man in the tan SUV that he saw him run into Driver 2. Lieutenant Fox told the man in the tan SUV that he was "driving like an idiot," and told him to apologize to Driver 2. The man driving the tan SUV apologized to Driver 2. Under these circumstances, filing charges for leaving the scene of a motor vehicle is not warranted.

Turning to the actions of certain people gathered at the intersection that evening, consideration was given to filing charges against those individuals who entered the public streets and confronted motorists. Several people at the intersection were not merely protesting. Some people were confronting, and, in some cases, blocking and taunting drivers who were traveling or attempting to travel through the intersection at Providence and Broadway. That intersection is one of the busiest intersections in central Columbia.

There is evidence that the people blocking the roadway, including A.K. and B.W, unreasonably and knowingly disturbed or alarmed drivers who were on a public roadway, and purposely caused inconvenience to them by unreasonably and physically obstructing vehicular traffic, which could constitute the crime of peace disturbance. Based on the actions of some of those gathered at the intersection, there is also evidence that six or more were assembled together for the purpose of violating the law, namely disturbing the peace, as just described. For those gathered for that purpose, it could constitute the crime

of unlawful assembly, and it would be the crime of rioting if any person so gathered committed a peace disturbance.

Some drivers made ill-advised decisions that evening when they encountered people in and near the intersection. People who blocked streets and approached motor vehicles at the intersection also made ill-advised decisions to confront drivers who were lawfully traveling on the roadway. Drivers were where they had a lawful right to be, and people blocking traffic in the intersection were not. It is not in the interests of justice to proceed with criminal charges against the drivers or protesters as a result of the incidents at the intersection that evening.

Simply because no charges are being filed for these particular incidents does not mean that a driver who intentionally strikes a protester in the future will not be charged, or that protesters in the future who participate in unlawful assemblies, riots, or property damage will not be charged. Any case will be examined on its own merits, and charging decisions will be based on the evidence. The decision made in these two incidents is based on the evidence. Should any additional evidence come to light, it will be considered, and charges could be filed up to and until the time the statutes of limitation expire.



David Hansen
Assistant Prosecuting Attorney