

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT

File 82-CR-19-2887

State of Minnesota,

Plaintiff,

vs.

**DEFENDANT'S OFFER OF PROOF:
THE TESTIMONY OF STEVE FRAZER**

Brian Jeffrey Krook,

Defendant.

The Defendant, Washington County Deputy Sheriff Brian Krook, through and by his lawyers, Kevin Short and Paul Engh, makes the following offer of proof. At the December 9, 2019 Omnibus Hearing, Steven Frazer will testify as follows:

1. I am a licensed police officer in the State of Minnesota and have been so since 1990.

2. I began my law enforcement career in 1990 for the City for Roseville. In 1996, I was hired by the St. Paul Police Department, and have served there in the following capacities: Officer; Sergeant; Commander; Senior Commander for the Central District; and the Special Operations Unit. I was also an investigator for violent crime.

3. I was recruited to work for the Ramsey County Sheriff's Office in 2017, and served there initially as an Undersheriff, and thereafter served as the Chief Deputy. I returned to the St. Paul Police Department in January 2019, as a Commander.

4. I became the Chief of Police for Prior Lake, Minnesota on May 20, 2019,

where I remain employed.

5. I have trained scores of police officers in the appropriate use-of-force during critical incidents. I have testified as an expert witness in that capacity on approximately twenty-five to thirty occasions. Mr. Dusterhoft's statement, of September 23, 2019, to the effect that he was not aware of my ever having testified as an expert is inconsistent with my experiences with him, and with his office.

6. I am familiar with standards imposed upon police officer by the cases of the United States Supreme Court.

7. In the specific capacity of an expert, I was contacted by Richard Dusterhoft in early December 2018. I have a firm memory of my conversations with him. I have found them to be unforgettable.

8. During our first conversation, Mr. Dusterhoft told me that John Choi, the Ramsey County Attorney, and John Kelly, the First Assistant Ramsey County Attorney, had respect for my opinions, and that he, Mr. Choi and Mr. Kelly wanted me to review the police reports and videos in the matter concerning Washington County Deputy Krook. Mr. Dusterhoft supplied me the videos and reports in mid-December. I reviewed the data as requested over the Christmas break. Mr. Dusterhoft indicated that, within his office, there was disagreement as to whether the shooting was justified, and he sought out my opinion to help resolve the internal office debate. My impression was that Mr. Dusterhoft sought my opinion, if favorable to the Deputy, to dissuade his office from engaging in the Krook prosecution.

I was not provided with Mr. Evans' suicide note, which I also believe is critical information in evaluating the case. He wrote: "To the first responders, I'm so sorry that this is another memory in your career, of another lost soul, but your job is not to save them all, just the ones you can. Carry on, you have the watch from here my friends. In his service, /s/ Benjamin Evans, Firefighter – EMT." Mr. Evans' note to his parents confirms his desire to be killed by the on-the-scene officers. These excluded notes are important in taking into account the totality of the circumstances in this case.

9. During my second conversation with Mr. Dusterhoft, in late December or

early January 2019, we reviewed the video of the shooting together while on the telephone. I told him again that in my opinion the Deputy's conduct was justified. In my review of the file and the videos, I clearly saw what happened. I did not need an advanced diagram of the scene to come to my conclusion. I was never informed, as Mr. Dusterhoft alleges in his statement, that I was not qualified to render an opinion because I did not work for what he describes as a "smaller agency." Mr. Dusterhoft was aware I once worked for the Roseville Police Department. I was never told, when first approached by Mr. Dusterhoft, that I would not be a witness. Nor was there ever a claim that my opinion was skewed by "loyalty or bias," as Mr. Dusterhoft now alleges in his statement. It is not. Moreover, I have always been willing to testify consistent with my opinion, and I disagree with Mr. Dusterhoft's suggestion that I was not.

10. I did provide two additional names of experts for Mr. Dusterhoft to contact.

11. When the Indictment was filed against Deputy Krook, I called Mr. Dusterhoft, and told him that the law enforcement community was aware that I had rendered an opinion, that this was a justifiable shoot, and that he should disclose my opinion if he hadn't already done so. He did not dispute that my opinion should be disclosed.

12. On August 21, 2019, Mr. Dusterhoft telephoned me, and further provided his memory of our conversations and my work on his office's behalf. He suggested Mr. Choi had no involvement with my review, and was unaware of my opinion. He also mentioned that his and John Kelly's memory was that I was only asked about the supervisor's conduct in the Krook matter, and not Mr. Krook's own behavior. I told Mr. Dusterhoff that was incorrect, and I asked him why he was attempting to diminish what had been said between the two of us, the nature of my opinion, who knew about it, and when. He had no response.

13. Mr. Dusterhoft's further suggestion, in his September 23, 2019 statement, that our conversations about my opinion and analysis had no "significance" to him is also incorrect. He specifically told me that my opinion would be forwarded to John Choi and John Kelly, in order to assist in shaping their view of the case.

14. I met with Kevin Short and Paul Engh on two occasions, September 4 and October 8, 2019, at the Prior Lake Police Department. This offer of proof is a summary of my conversations with them and my opinion provided to the Ramsey County Attorney's office.

Dated: November 25, 2019

Respectfully submitted,

/s/ Paul Engh

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