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# **Charleston County deputy ‘acted appropriately’ by shooting 911 caller mistaken for burglar, AG says**

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Bryant Heyward sits in late June 2015 at Medical University Hospital, where he had been since a Charleston County deputy shot him May 7, 2015, at his Hollywood home. File/Provided

The Charleston County deputy who mistook a 911 caller for a burglar “acted appropriately” when he shot the resident nearly three years ago, the state Attorney General’s Office said in declining to pursue charges against the lawman.

Lawyers for Bryant Heyward, the resident paralyzed by the bullet, did not expect to see an arrest in the case but they said prosecutors’ opinion of the May 2015 encounter highlights how the justice system greatly favors officers in South Carolina, even when they make mistakes.

Heyward, then 26, had used a gun to defend himself from home invaders but didn’t drop it before help arrived.

After a responding deputy saw the pistol, he shot Heyward, striking him in the neck.

“We have concluded that Deputy (Keith) Tyner acted appropriately in response to an apparent deadly threat,” Senior Assistant Deputy Attorney General Heather Weiss said Friday in a letter to state investigators, “and that there is insufficient evidence to merit criminal prosecution.”

A family attorney — Democratic state Rep. Justin Bamberg, said he was not surprised by the decision, particularly because criminal laws give police officers leeway in reacting to someone they reasonably perceive to be a threat, even if they are mistaken.

Tyner might have reacted differently had he and the dispatchers who initially handled the 911 call been better trained to handle such situations, Bamberg said.

“I cannot think of any situation where shooting an innocent homeowner who is scared to death is appropriate,” the attorney added. “If anything, this shines a light on a larger problem with law enforcement ... overreacting.”

The shooting came a month after a white North Charleston officer shot Walter Scott, a black motorist whose videotaped killing drew broad scrutiny of that city’s police force.

To minimize public backlash to a shooting that critically wounded a black man, a pending federal lawsuit alleges, sheriff’s officials conspired to withhold certain details in Heyward’s case. Those include a report by the deputy that said Heyward had pointed the gun.

Amid a national inspection of police conduct, the account would have been hotly disputed at the time but it wasn’t released until last year.

Tyner’s lawyer, Frank Cornely of Charleston, said whether Heyward actually pointed the gun does not matter; the deputy perceived that to be the case and reacted.

A string of unfortunate events, from dispatchers never asking whether the caller was armed to Heyward not dropping the gun, thrust Tyner into that predicament, Cornely said.

“Without a body camera, no one knows what actually happened,” he said. “But the end result is still very, very sad.”

The deputy had already been cleared by an internal probe and returned to duty.

Chief Deputy Eric Watson said every deputy goes through a review after a shooting to pinpoint any training deficiencies. He wasn't sure of the findings in Tyner's case, Watson said.

He expressed a hesitancy to scrutinize in hindsight a decision that the deputy made in a flash.

"But we acknowledged that this incident was unfortunate," he said. "We wish things didn't happen the way they did."



An image from a dashboard camera video shows Charleston County Deputy Keith Tyner walking toward Bryant Heyward's home in Hollywood in May 2015.  
File/Charleston County Sheriff's Office/Provided

'Wrong guy'

Heyward lived on Scott White Road with his mother and brother but was alone on May 7, 2015, when gunmen showed up. They likely wanted to steal his brother's .40-caliber pistol, a suspect later told investigators.

He grabbed the gun, and a shootout ensued. No one was hurt.

Heyward dialed 911, his voice quivering as he hid in a laundry room.

Tyner and Master Deputy Richard Powell arrived. They didn't know that the perpetrators had run away. They didn't know the 911 caller had a gun.

In the backyard, Tyner saw a door fling open "and a black male appeared and pointed a handgun" at him, he said in his report.

Powell wrote in a separate document that he couldn't see what was happening.

"Show me your hands," Tyner shouted, his words captured by a microphone on his uniform. The action was far beyond the view of a video camera in his patrol car.

About 1.1 seconds later, Tyner fired twice. A bullet crumpled Heyward to the ground, rendering him a quadriplegic.

"Wrong guy, sir!" Heyward cried.

Heyward realized then, he later told a detective during an ambulance ride, that he should have dropped the gun before Tyner got there.

"He thought I was the crook," Heyward said.

After the shooting, county dispatchers fielding reports of home invasions started asking 911 callers if they have a gun.

‘Story will live on’

The State Law Enforcement Division probe into the shooting loomed over the deputy for years. Heyward couldn’t move on either.

The examination had been held open for so long because SLED and some elected solicitors disagreed about who should be responsible for deciding whether an arrest is warranted in such cases. Amid this divide, a handful of Charleston-area investigations, including Heyward’s case, were sent to the attorney general.

Normally they would have been reviewed by Charleston area 9th Circuit Solicitor Scarlett Wilson.

Sandy Senn, a state senator and West Ashley attorney defending Tyner in the lawsuit, lauded the attorney general for clearing the deputy.

“It was a terrible yet reasonable mistake. It certainly was not criminal,” she said. “Our officers are under too much stress and threat of prosecution as it is. When the facts present a clearly justified use of force, prosecutors should call it like it is, and do so quickly.”

A panel of prosecutors and other authorities from across the state in November suggested methods for addressing various issues related to police shootings. One recommended creating a unit at the Attorney General's Office tasked with investigating and prosecuting misconduct cases.

Another called for a new state law laying out the parameters for the use of deadly force and providing penalties for officers who breach them. Bamberg, of the town of Bamberg, praised a measure that could clarify legal expectations for officers.

He said Scott's death in North Charleston, which prompted a conviction and 20-year prison sentence for officer Michael Slager, and Heyward's wounding still must serve as teaching moments.

Heyward now relies on his mother for round-the-clock care.

"The Charleston County Sheriff's Office still has the opportunity to make this right for Bryant," Bamberg said, referring to the unresolved lawsuit. "We also hope his story will live on and will prevent this from happening to someone else."

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MORE INFORMATION

\$750K settlement reached in case of SC deputy who shot 911 caller mistaken for burglar

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