



J. Hanley

WINNEBAGO COUNTY STATE'S ATTORNEY

DATE: January 13, 2023
TO: The People of Winnebago County
FROM: J. Hanley, State's Attorney *JWH*

**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: Peter J. Jaeger**

I. Introduction

On September 1, 2022, Rockford Police Officer Alexander Stone utilized deadly force against Peter J. Jaeger. More specifically, Officer Stone shot Jaeger and he died as a result of his gunshot wounds. The Winnebago-Boone County Integrity Task Force ("Task Force") conducted the investigation of the shooting. During the course of their investigation, investigators interviewed civilian witnesses, reviewed 911 calls, police radio transmissions, police body worn cameras, photographs of the scene, police reports, and the results of forensic evaluations. The Task Force provided the Office of the Winnebago County State's Attorney its final report of investigation pursuant to the Police and Community Relations Improvement Act.

The purpose of this memorandum is to provide the community with an explanation of the facts of the incident, the legal principles involved, and this Office's decision as to whether the officer should be charged criminally for his actions that night.

As detailed below, I find that Officer Stone's use of force was justified as he acted reasonably and lawfully. Therefore, no criminal charges are warranted.

II. Review of Officer Involved Shootings

Whenever an officer-involved death occurs in Illinois, the distinct roles of investigators and prosecutors are governed by statute. Specifically, the Police and Community Relations Improvement Act ("PCRIA")(50 ILCS 727) mandates that the investigation of any officer-involved death be conducted by a team of investigators who are independent of the law enforcement agency that employs the officers involved in the officer-involved death.

Winnebago and Boone Counties go beyond what the statute requires as the Task Force investigates police shootings and other deadly use of force, regardless of whether a death occurs. The Task Force is comprised of all law enforcement agencies in Winnebago and Boone County. The Task Force is headed by a commander from the Illinois State Police. The sheriffs and police

chiefs maintain authority to activate the Task Force when an officer involved shooting or other use of deadly force occurs. If the law enforcement agency has an officer that is the subject of the investigation, that agency's officers are excluded from participating in the investigation.

As with all criminal cases, it is the primary responsibility of the investigating agency to collect all available evidence of a potential crime so that a determination of the facts can be made. The State's Attorney then reviews the evidence and makes the decision of whether criminal charges should be brought against the officers involved. The State's Attorney does not make any determinations regarding whether an officer may have violated police department policy or civil (non-criminal) laws.

III. Prosecutorial Standard for Filing Criminal Charges

A. Generally

In making a charging decision, the State's Attorney makes a determination of whether there is sufficient admissible evidence to prove each element of an offense beyond a reasonable doubt. This analysis is consistent with the American Bar Association Criminal Justice Standard 3-4.3 which provides: "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 interest of justice."

This is the same standard that the Winnebago County State's Attorney's Office applies to all criminal prosecutions. This analysis also requires the State's Attorney to evaluate whether there is sufficient evidence to overcome any affirmative defense that the accused is likely to raise.

B. Use of Force

In most cases involving an officer's use of force, whether lethal or not, the primary question to be decided is whether the officer was justified in the use of the force employed. As with any citizen, an officer may use force in defense of himself or another from bodily harm. The Illinois Use of Force in Defense of Person statute provides in relevant part:

A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony.

720 ILCS 5/7-1 (a).¹

¹ The elements justifying the use of force in defense of person are that (1) force is threatened against a person; (2) that the person threatened is not the aggressor; (3) that the danger of harm is imminent; (4) that the force threatened is unlawful; (5) that the person threatened must actually believe that a danger exists; (6) that the use of force is necessary to avert the danger; (7) that the kind and amount of force which he uses is necessary; and (8) that such

In the context of defense of person, Illinois law is well-established that “[j]ustifiable use of force is a defense in a murder prosecution when the person’s belief is reasonable even if it is mistaken.” *People v. Lockett*, 82 Ill. 2d 546, 550 (1980). “Consequently, the law does not charge a person, when he has reasonable grounds to believe himself in apparent danger of losing his life or suffering great bodily injury, to use inerrable judgment. It would be unreasonable to require such an exacting decision to be made in the space of a few seconds while one is fearful and under great stress.” *People v. White*, 87 Ill. App. 3d 321, 323 (1st Dist. 1980) (citing *People v. Motuzas*, 352 Ill. 340, 346 (1933)). See also *People v. Keefe*, 209 Ill. App. 3d 744, 751 (1st Dist. 1991) (“The privilege of using deadly force to protect oneself from another, if one reasonably believes he is in imminent danger of death or great bodily harm, exists even where one is mistaken or the danger is only apparent.”).

Accordingly, “it is the [person]’s perception of the danger, and not the actual danger, which is dispositive” (*People v. Sawyer*, 115 Ill. 2d 184, 193 (1986) (citing *People v. Johnson*, 2 Ill. 2d 165, 171 (1954)), and the “test is what the defendant, as a reasonable man, believed under the circumstances.” *People v. Willis*, 217 Ill. App. 3d 909, 922 (1st Dist. 1991); see also *People v. Rodriguez*, 187 Ill. App. 3d 484, 489 (1st Dist. 1989).

In addition to defense of person, a determination must also be made as to whether the officer’s actions were justified under 720 ILCS 5/7-5. That statute provides in pertinent part:

(a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when: (i) he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person; or (ii) when he reasonably believes, based on the totality of the circumstances, both that: (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another; and (2) The person to be arrested committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

720 ILCS 5/7-5(a). See also, *Tennessee v. Garner*, 471 U.S. 1, 11 (1985) (“[I]f the suspect threatens the officer with a weapon deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.”)

beliefs are reasonable. *People v. Everette*, 141 Ill. 2d 147 (1990); *People v. Belpedio*, 212 Ill. App. 3d 155 (2nd Dist. 1991); *People v. Swanson*, 211 Ill. App. 3d 510 (1st Dist. 1991).

Moreover, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Graham v. Connor*, 490 U.S. 386, 396-7 (1989). *See also* 720 ILCS 5/7-5(f). In evaluating whether an officer’s actions were reasonable, the Supreme Court has stated courts must pay “careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham* at 396.

IV. Summary of Facts

Unless otherwise noted, the following recitation of the facts is derived primarily from reports of law enforcement officers involved in the incident, dispatch recordings, and video evidence – particularly body worn camera footage.

A. Officers Knowledge of the Situation Prior to Arrival

On September 1, 2022 at approximately 8:30 p.m., several City of Rockford Police Officers responded to 4175 Linden Rd. in reference to a domestic dispute. Dispatch advised the responding officers, including Officer Stone, that the caller, Irene, stated her husband Peter Jaeger (Jaeger) was “coming up quick.” Dispatch further advised the officers of the following based upon Irene’s statements on the call and their being able to hear much of what Jaeger was saying: (1) Irene advised she couldn’t talk, and stated Jaeger was threatening her and didn’t know she was on the phone with 911; (2) Jaeger was telling Irene that if she calls 911 then he would get a gun out and do suicide by cop; and (3) Jaeger stated something along the lines of if I see flashing lights come up I will open fire and end up dead. Prior to Officer Stone’s arrival, dispatch advised Jaeger was opening the garage door.

B. Officers Observations Upon Arrival

Officer Stone arrived to the residence first and approached holding his department issued patrol rifle. The garage door was open and the inside was dark. Officer Stone used his foot to trip the garage door sensor, and the light turned on. Officer Stone remained in the garage and continued communication with dispatch. Dispatch said they heard Jaeger say “get the police here so I can shoot them and they can shoot me.” Officer Stone inquired as to whether Irene could get out of the house, which dispatch stated she could not. Dispatch clarified Irene was locked in the bathroom and Jaeger was outside of the bathroom talking to her.

Officer Mctizic arrived on scene and was supporting Officer Stone in the garage. Once Officer Mctizic was on scene, the officers began to hear a male’s voice yelling. Officer Stone asked dispatch if they had a phone number for Jaeger but dispatch stated that they did not. All that dispatch could hear was Jaeger screaming but did relay that Irene was saying “he’s ready to end it.”

While still in the garage, officers heard a high pitch female voice screaming for help, alongside forceful banging. According to Officer Stone, he believed the suspect was trying to force the bathroom door open. Officer Stone positioned himself near the doorway inside of the garage, which led into the residence. He checked the doorknob, which was unlocked.

Officer Stone decided to enter the residence through this door. However, he did not announce himself or the other officers as police prior to entering. Per Officer Stone, and after discussion with Officer Mctizic, they did not do so because of Jaeger's threatening statements and the fact that the victim was trapped inside a bathroom in the residence. Officer Stone believed that if he announced himself, he would put himself, fellow officers, and Irene at risk. It would put him and the other officers at a "tactical disadvantage." His goal was to rescue Irene as he believed she was in great danger of death or great bodily harm.

C. Officers Entering of Residence

The following is taken from Officer Stone's report:

Almost immediately after I entered, I observed a subject, later identified as Peter, exit the room, later determined to be the bathroom Irene was inside. There was a coat rack/shoe rack to my left positioned alongside the wall between the suspect and I. The coat rack/shoe rack caused the right side of Peter's body to be mostly out of view. As I entered I lowered my center of gravity and stepped to the left, as I was trying to see through the coat rack/shoe rack. I yelled for Peter to show me his hands. There was a small visual opening between the bottom of the coats and top of the shoe rack, through which I was able to obtain a view of the right side of Peter's body. I observed Peter's right hand as it came into view. I observed Peter holding a silver revolver in his right hand, and he was motioning it towards fellow Officers and I. The distance between Peter and I was approximately 5 feet. I observed Peter advancing towards Officers [sic] in what I perceived to be an aggressive and quick manner. I feared for my life, the lives of the Officers behind me, and Irene's life. I fired my department issued patrol rifle at Peter four times. I then observed Peter drop the revolver prior to him falling backwards. I advanced towards Peter and stepped on the revolver, kicking it backwards with my right foot.

Officer Mctizic stated he entered a few seconds after Officer Stone and could see over Officer Stone's right shoulder because he is taller than Officer Stone. Officer Mctizic observed a white male exit the bathroom backward and make left hand body turn toward he and Officer Stone with a firearm in his right hand.

Video footage taken from Officer Stone's body worn camera confirms what Officer Stone says he observed and heard. The angle of the camera and the presence of a coat rack and shoe rack prevent a clear view of Jaeger holding the firearm. During the footage, you can hear Irene's screams from inside the bathroom and officers stating that "he has a gun."

D. After Jaeger was Shot

After Jaeger was shot, officers immediately began tending to Jaeger and his wounds. An officer was able to detect a pulse, however, that same officer reported that it appeared Jaeger may have passed right before members of the Rockford Fire Department arrived. They removed Jaeger from the home and transported him to OSF St. Anthony Hospital where he was pronounced dead at 9:08 p.m.

E. Physical Evidence

Based upon physical evidence taken from the scene and an examination of Officer Stone's firearm, it was determined that he fired four rounds from his department issued rifle – a Ruger AR-556 .223 caliber.

The autopsy revealed three gunshot wounds to Jaeger's body and three projectiles (bullets) were recovered from Jaeger's body. There were fragments of a fourth rifle bullet recovered from the south wall near the garage entrance. Further, four casings were recovered from the garage floor near where Officer Stone entered the home.

Jaeger's firearm was identified as a Taurus 817 Ultralite .38 caliber. It was recovered loaded with seven bullets. At the time of this incident, Jaeger had a valid FOID card and records demonstrate he had purchased the firearm legally.

F. Autopsy Report

The autopsy report concluded that Jaeger died as a result of gun wounds of the chest. More specifically, the wounds to the right lateral chest, right chest, and left chest.

Further, the autopsy revealed that alcohol was in Jaeger's system at the time of the autopsy finding his blood contained ethanol at 177 mg/dL.²

V. **Application of the Facts to the Legal Standard**

A criminal prosecution for either first or second-degree murder would require proof beyond a reasonable doubt that Officer Stone was not legally justified in using deadly force against Jaeger. In other words, a judge or jury would need to conclude that Officer Stone did not reasonably believe that he or others were in imminent danger of great bodily harm from Jaeger.

Based upon the totality of the circumstances, Officer Stone's belief that shooting Jaeger was necessary to protect himself, other officers, and Irene from great bodily harm was reasonable.

Officer Stone arrived on scene knowing it was a volatile situation. Dispatch relayed information which demonstrated that fact: Jaeger had threatened Irene and based upon the statements heard on the 911 call and relayed to Officer Stone, it was reasonable for Officer Stone to believe Jaeger was armed.

² This is equal to twice the legal limit for motorists in Illinois.

Officer Stone learned Irene was hiding in a bathroom and just before entering, he could hear loud banging and Irene screaming. Officer's Stone's belief that Irene was in danger was reasonable based upon the circumstances. Further, while an officer should announce himself when possible, Officer Stone's justification for not announcing himself as a police officer was a reasonable and appropriate use of his discretion, aimed at the protection of Irene. Of note, Officer Stone was wearing his department issued vest which has the word "POLICE" displayed conspicuously on the front and back.

Officer Stone entered the residence and observed Jaeger turn towards him with a gun in very close quarters. Officer Stone firing his rifle four times at Jaeger was a reasonable response as Jaeger could have inflicted death or great bodily harm against him, the other officers, or Irene.

Based upon the totality of the circumstances, Officer Stone was justified in firing at Jaeger.

VI. Conclusion

Based upon the evidence reviewed and the applicable legal standards, Officer Stone's use of deadly force was justified and thus, no criminal charges will be filed in this case.