




**J. Hanley**

WINNEBAGO COUNTY STATE'S ATTORNEY

DATE: August 19, 2021

TO: The People of Winnebago County

FROM: J. Hanley, State's Attorney 

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**POLICE INVOLVED DEATH DECISION MEMORANDUM  
DECEDENT: FAUSTIN GUETIGO**

**I. Introduction**

On April 10, 2021, Winnebago County Sheriff's deputies utilized deadly force against Faustin Guetigo. More specifically, deputies shot Faustin Guetigo and he died as a result of those gunshots. 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 and reviewed 911 calls, police radio transmissions, police in-car cameras, police body worn cameras, cell phone records, private surveillance video, photographs of the scene, police reports, medical records 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 deputies' should be charged criminally for their actions that day.

As detailed below, I find that Sergeant Broullard and Deputy Eiten's use of force was justified as they 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.

In this case, Illinois State Police Master Sergeant Charles Davidson was the Task Force commander and Rockford Police Detective Sergeant David Swanson was the assigned squad leader.

### **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).<sup>1</sup>

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 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 to be necessary to affect the arrest and of any force which he reasonably believes 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 he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that: (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and (2) The person to be arrested has 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.

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<sup>1</sup> 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 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).

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.”)

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). 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. Facts**

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

##### **A. Initial Contact with Rose Ndoroum**

On Saturday April 10, 2021 at 11:25 a.m., Winnebago County Sheriff’s (WCS)) Dep. Kempin responded to Casey’s General Store on Columbia Parkway in Rockford, Illinois regarding an alleged domestic battery that had occurred at 2191 Bellwort Drive in Rockford. Upon arrival, Dep. Kempin met with the Rose Ndoroum. Ndoroum had walked to the Casey’s to call 911 because Guetigo had taken her phone. Dep. Kempin’s body worn camera recorded the interview with Ndoroum. Dep. Coomer also arrived at Casey’s but remained in the parking lot. Dep. Kempin later briefed him on Ndoroum’s statements.

Ndoroum stated that Guetigo was her fiancé and that they have one child together. Ndoroum has another son who is nonverbal and has special needs. Earlier that day, Ndoroum picked up her sons from her mother’s apartment, which is connected (but not accessible) to Ndoroum and Guetigo’s apartment, and took them to their apartment. Guetigo then took the boy who was not his son back to Ndoroum’s mother’s apartment. Ndoroum confronted Guetigo about this and they began to argue. Guetigo only wanted their common son to live with them. Guetigo got mad at Ndoroum and began punching her on the top of her head and on her face with a closed fist. While recounting the incident, Ndoroum was upset and crying. She showed Dep. Kempin her lip, which appeared bloody and swollen.

Dep. Kempin transported Ndoroum to her apartment. Upon approaching the apartment, Ndoroum noted that Guetigo was not home because his car was not in the driveway. Ndoroum was unable to get into her apartment because Guetigo had taken her phone and keys.

Ndoroum and Dep. Kempin went next door to Ndoroum's mother's house. While inside, Ndoroum completed a lethality assessment form. While doing this, Ndoroum told Dep. Kempin that Guetigo had "grabbed her neck" and said that he had "tried to kill her." She also said that Guetigo was jealous and controlling and that she was worried about his anger. Ndoroum informed Dep. Kempin that Guetigo did not have any guns. Ndoroum told Dep. Kempin that she just wanted Guetigo to get his things and leave their residence.

After completing the form, Ndoroum was assessed as being in "high danger" but declined to speak with someone from Remedies. Ndoroum declined to give a written statement and did not want to talk about the incident around her children. Dep. Kempin asked Ndoroum if there was a safe place she could take her and her children. Ndoroum stated that she wanted to stay at her mother's apartment. Dep. Kempin told Ndoroum that if Guetigo returned she should call 911.

Dep. Kempin called Guetigo and left a voicemail requesting that he return to the scene or call 911 to discuss the incident.

Based upon Ndoroum's statements and the injury to her face and lip, deputies had probable cause to arrest Guetigo for domestic battery. WCSO dispatch notified deputies of an "attempt to locate" for Guetigo for the charge of domestic battery.

#### B. Initial Contact with Guetigo

At 5:15 p.m., Dep. Coomer responded to 2191 Bellwort Drive in reference to a 911 call. Ndoroum had called 911 when Guetigo arrived home. Dep. Coomer parked his squad car in front of 2191 Bellwort and upon exiting, made contact with Guetigo in the roadway. Dep. Coomer told Guetigo that he needed to speak with him. Guetigo approached Dep. Coomer and they engaged in a conversation. When asked, Guetigo stated that he did not have any weapons on him. He then raised his hands and put them behind his head. Dep. Coomer ordered Guetigo to turn around and put his hands behind his back. Guetigo asked "why" and started walking towards his apartment, ignoring Dep. Coomer's commands to stop. Dep. Coomer grabbed Guetigo's arm and told him to stop. Guetigo pulled away and continued to make his way to the north entry door to the apartment. Dep. Coomer grabbed Guetigo's shirt, which ripped as Guetigo went back into his apartment.

Dep. Coomer advised dispatch that Guetigo had resisted arrest and requested additional deputies expedite their response to the residence.

Dep. Coomer walked back towards his squad car and made contact with Ndoroum. He asked Ndoroum if Guetigo had any weapons in the residence. Ndoroum stated only "kitchen knives" and that Guetigo did not have any guns in the residence.

A few minutes later, Guetigo exited from the same door that he had entered a few minutes earlier. This door was on the north side of the apartment and led to a breezeway between the apartment and an exterior garage. Dep. Coomer met Guetigo in a grassy area in the front of the apartment. Dep. Coomer attempted to grab Guetigo's arm and take him to the ground to arrest him. Guetigo pushed Dep. Coomer away and Dep. Coomer slipped and fell to the ground.

Ndoroum stepped between Dep. Coomer and Guetigo and Dep. Coomer ordered Ndoroum to step aside while Guetigo entered and exited the north door. According to Dep. Coomer, Guetigo became more and more agitated as the encounter went on.

Guetigo exited the home again and went into the back yard. Dep. Coomer began talking with Guetigo and at one point Dep. Coomer unholstered his Taser and warned Guetigo that he would tase him. According to Dep. Coomer, because of Guetigo's coat and close proximity, Dep. Coomer did not believe that a Taser strike would be effective and he re-holstered his Taser. Guetigo then said "you kill me now" two times. Dep. Coomer responded that he was not going to kill Guetigo and that he did not want to hurt him.

Guetigo walked toward the apartment and pushed past Dep. Coomer. Dep. Coomer grabbed Guetigo's right arm and Guetigo pulled away. Dep. Coomer swept Guetigo's feet and Guetigo fell to ground. Guetigo immediately got back to his feet and charged Dep. Coomer, attempting to hit him. During this encounter, Ndoroum was yelling and was very close to Dep. Coomer and Guetigo. Guetigo entered the apartment again.

Dep. Coomer placed Ndoroum in the back of his squad car and continued to watch the home until other units arrived. Dep. Coomer did not see Guetigo exit the apartment again.

Dep. Coomer provided, via radio to other deputies, a description of Guetigo – black male wearing black pants, a blue t-shirt, and a green utility coat. He also explained that a two year old was in the residence.

### C. Before Entering the Residence

Winnebago County Sgt. Broullard and Deputies McCulloch, Eiten, Humphries, Kempin, and Fey arrived along with Cherry Valley officers.

The front of the residence faces east and has an unattached garage on the north side of the residence. There are two doors on the front of the residence, one towards the southern end and another in the middle of the residence. There is a third door on the north side of the residence which opens to a breezeway between the residence and the garage.

Deputies "cleared" the garage and the south residence. In so doing, they did not encounter Guetigo, but did locate one of Rose's children and her sister, who were removed from the residence. After clearing this residence, deputies learned that the building was a duplex, and the north residence was separate – it was not accessible from the south residence. Because Guetigo had entered this door during his encounter with Dep. Coomer, it was believed that Guetigo would be in this north apartment. They knocked on the door and loudly called out to Guetigo, requesting that he come out of the residence.

Deputies spoke with Ndoroum who stated that Guetigo would be in the residence with their common child. Ndoroum gave Dep. Humphries the key to the north side door and he then gave the key to Sgt. Broullard.

Sgt. Broullard and the other deputies decided to enter the home in an attempt to locate Guetigo and the child.

An arrest team was set up outside of the north door: Dep. Kempin had his Taser out, Sgt. Broullard had his firearm out, and Dep. Fey was "open handed." Dep. Eiten was also present. Each of the deputies were in Sheriff's department uniforms.

#### D. Inside the Residence

Sgt. Broullard put the key in the north door and opened it. Dep. Kempin entered the residence first, moving to his left into the kitchen area of residence. Sgt. Broullard entered second. Both he and Dep. Fey loudly announced themselves as being from the Sheriff's department.

Just inside the door was another door which opened to the basement. Sgt. Broullard opened the door and saw Guetigo on the stairway with an object in his hand. Sgt. Broullard commanded Guetigo to "drop it" several times. Guetigo charged at Sgt. Broullard and Sgt. Broullard began shooting at Guetigo. Guetigo continued coming up the stairs and once he got to the top of the stairs, attacked Sgt. Broullard with a metal pipe, striking him twice: once in the hand and another on the head. A picture of the metal pipe is attached to this memorandum as Exhibit A.

Both Guetigo and Sgt. Broullard fell to the ground in the small area between the basement door and the north door.

##### 1. Sgt. Broullard's Statement

On April 10, Sgt. Broullard started his shift as a patrol supervisor. He was wearing his department issued uniform including an outer vest which was marked with "Sheriff" on the front and back. He was carrying a Glock model 21 which is 45 caliber. His firearm was fully loaded with one round of ammunition in the chamber and 13 rounds in the magazine.

At approximately 5:20 p.m., Sgt. Broullard heard dispatch giving out a call for 2191 Bellwort Drive in reference to a follow up for domestic battery. Sgt. Broullard had Deputies McCulloch, Eiten, Coomer, Humphries and Fey respond to the scene. Sgt. Broullard arrived on scene at 5:37 p.m.

Before arriving, Sgt. Broullard had learned the following information from other deputies: That Guetigo had punched and choked Ndoroum earlier in the day and that he was to be arrested for domestic battery. He also was made aware that Guetigo had resisted Dep. Coomer's attempts to arrest Guetigo. Dep. Coomer described Guetigo as a black male wearing black pants, a blue t-shirt, and a green utility coat. Further, Dep. Coomer advised that a two year old child was with Guetigo.

After arriving, Sgt. Broullard aided in clearing the southern residence. It was believed that Guetigo was in the north residence. Sgt. Broullard stated that he and the other deputies would enter the north residence to search for Guetigo and the child.

The following is taken directly from Sgt. Broullard's report of the incident:

An arrest team was set up at the door nearest the garage, and a perimeter was kept on the house. I opened the door to the home with the keys given. Dep. Kempin had his Taser out and I had my weapon out in my left hand for lethal and non-lethal cover. Dep. Fey was open handed for the arrest team. Dep. Fey was announcing police loudly before we entered the home and I announced Sheriff's Department as I entered the home. Dep. Kempin went in first with his Taser and moved to the left. I followed behind him and observed a door to the front of me after entering the home in a small entry way almost directly in front of the door to the home. I opened that door and observed a man at the bottom of the stairs in the basement that matched the description of the suspect given by Dep. Coomer, the man was wearing black pants and a neon utility work jacket. He had a long metal object in his hand that appeared to be a bat, pipe, or some type of sword/machete.

I stayed at the top of the stairs and began to give loud verbal commands saying "Let me see your hands, drop it, drop it." Dep. Fey was also giving similar commands to the suspect. There was sufficient lighting and no barriers such that it should have been visible to the suspect that I was in uniform with my weapon drawn.

The suspect did not comply and aggressively moved up the stairs with the weapon in his right hand. He pointed at me and said no and then moved up the stairs fast raising the weapon in a manner to strike at me. I know based on my training and experience that a weapon on either blunt force or sharpened edged in the size the man was holding can cause great bodily harm and death. There was limited space between us even considering the stairs, such that I knew from my training and experience that he could be in position to strike with his weapon very quickly. There was nothing I could use as a barrier between myself and his attack and the area was so small and people were behind me that I did not have much room to create distance from the attack. I was also concerned that with the crowded and confined space that attempted flight would expose another deputy to his attack. The door to the basement was closest to Dep. Fey and could not be closed from my position.

Based upon his attack which amounted to imminent death and/or bodily harm to other deputies and myself, I began to discharge my firearm at the suspect to stop the attack. I fired an unknown amount of times at the suspect and he continued to advance at me without stopping. It seemed that the gun fire had no effect on him. He continued to advance and he struck at me with his weapon. I was struck twice, first in my right hand, I received a second strike to my head that made my vision go completely black and all the strength left my body as I went unconscious. I have no memory of what happened after going unconscious to anything done to include gunfire or actions taken by other deputies.



I have limited memory of what occurs after being struck and regaining some consciousness. I remember being assisted into a car and feeling warm blood pouring down my head then begin taken to a hospital.

## 2. Deputy Eiten's Statement

On April 10, Dep. Eiten started his shift working routine patrol. He was wearing his department issued uniform including an outer vest which was marked with "Sheriff" on the front and back. He was carrying a Glock model 21 which is 45 caliber. His firearm was fully loaded with one round of ammunition in the chamber and 13 rounds in the magazine.

When deputies lined up to enter the north residence, Dep. Eiten was towards the back. The following is taken directly from Dep. Eiten's report:

As we were lined up at the basement door, I could hear deputies ordering someone to show their hands. I heard the deputies yell "Drop it!" several times. I heard what sounded like a person running up the stairs. My view was blocked at this point, but I believe I heard several Tazers being discharged and suddenly the deputies in front of me backed into me knocking me outside of the front door.

I suddenly saw a male subject through the glass window of the now partially closed door in a florescent yellow jacket flailing his arms in a striking motion at another deputy. He was forcing his way toward deputies while he was doing this. I could see a long object in his hands and could hear screaming and yelling as well as gunfire. I felt in that moment that his subject's actions would result in great bodily harm or death to an officer. Out of concern for the safety and lives of the officers actively being attacked, I drew my Glock 21 service weapon, pointed it at the subject, and I believe I fired a round through the glass window.

### E. After the Shooting

Body warn camera footage shows that both Guetigo and Sgt. Broullard collapsed into the foyer area between the basement door and the north door to the residence. According to Dep. Kempin, Sgt. Broullard appeared to lose consciousness. Deputies attended to both Guetigo and Sgt. Broullard.

Sgt. Broullard was dragged from the residence outside to the breezeway. Body warn camera footage shows that he had regained consciousness and said that he thought he had been hit with a bat. He was bleeding from the left side of his head. It was decided that he would be transported to the hospital in Officer Rach's Cherry Valley Police squad car. Dep. McCulloch accompanied Sgt. Broullard to the squad car and rode with him to the hospital.

After Guetigo collapsed, deputies could not see Guetigo's hands as he was facedown. Deputies worked to handcuff Guetigo. Deputies ascertained that Guetigo had been struck by gunfire and he was turned onto his back. Deputies Eiten, Coomer, and Fey began lifesaving efforts on Guetigo including placing tourniquets on his right leg and right arm. Dep. Eiten observed

gunshot wounds to Guetigo's right leg, right arm, chest and groin. Pressure was applied to Guetigo's wounds. Cherry Valley Fire Department/EMS arrived and took over the rescue effort, extracting Guetigo from the residence, placing him on a gurney and into an ambulance. He was transported to the hospital.

Dep. Kempin searched the residence and a young child was found in the living room. He was taken to Ndoroum. A friend of Ndoroum arrived to take custody of the three minors and Ndoroum was taken to Rockford Police Department's District 2 building to be interviewed.

At District 2, a chaplain and Rockford police detective notified Ndoroum that Guetigo had passed away. Once she had calmed down, detectives interviewed Ndoroum. The interview was recorded.

During the interview Ndoroum confirmed what she had told Dep. Kempin at Casey's earlier that day. She added that when Guetigo had returned to the residence after deputies had been there earlier, that they continued to argue. Guetigo grabbed Ndoroum by the front of her shirt and took her car key and phone away from her. Ndoroum knew that Guetigo had another phone in a different room and she called 911 from this phone.

When Dep. Coomer first arrived, Ndoroum stated the deputy told her to stay back and she was not able to see all that was happening. She did see a deputy attempt to place Guetigo's arm behind his back but he got away and ran back into the residence.

When deputies entered the residence, Ndoroum was in street in front of the residence. She said she saw four officers enter the residence and heard shooting and saw an officer bleeding. Ndoroum thought Guetigo had stabbed the officer. When asked why she thought that, Ndoroum said she thought that because Guetigo had threatened her with a knife in the past.

#### F. Broullard's Injury

Sgt. Broullard was taken to the hospital where he received medical attention for a contusion and laceration to the left side of his head. He received 9 stitches. A photograph of Sgt. Broullard's injuries are attached to this memorandum as Exhibit B. Sgt. Broullard had lingering effects from his injury for months following the incident.

#### G. Guetigo's Cause of Death

Guetigo was pronounced dead at the hospital. On Monday, April 12, Dr. Peters, pathologist for the Winnebago County Coroner's Office, performed an autopsy of Guetigo. Dr. Peter's provided Guetigo's cause of death as "gunshot wounds of chest and abdomen." The autopsy revealed eight gunshot wounds: right arm, left chest, right chest, right upper thigh, right anterior thigh, right lateral thigh, left back, and left hand.

#### H. Other Witness Testimony

Shortly after the incident, officers conducted a canvass of the neighborhood. Some neighbors reported hearing gunshots (approximately 5-7) but no one reported seeing anything specifically relevant to the incident - particularly inside the residence.

#### I. Ballistics Evidence

Sgt. Broullard and Dep. Eiten's firearms were taken into evidence at the hospital. As to Sgt. Broullard, the evidence demonstrated that he fired his firearm 11 times. Dep. Eiten fired his firearm once.

Based upon the number of gunshot wounds Guetigo suffered, it is a reasonable assumption that Sgt. Broullard shot Guetigo at least seven times and possibly eight times. This is consistent with Sgt. Broullard firing eleven times, his proximity to Guetigo and the number and location of the casings and projectiles recovered at the scene. The body cam footage and physical evidence gathered at the crime scene are inconclusive as to whether Dep. Eiten shot Guetigo.

#### J. Interview of Emmanuel Narbe and Search of Guetigo's Phone

On April 27, 2021, Rockford Police Detectives Donato and Stewart interviewed Emmanuel Narbe - a friend of Guetigo's. The interview with Narbe was video recorded and an interpreter was utilized as Narbe spoke Sango.

Narbe told detectives that Guetigo and he were from the same tribe/country and that he considered Guetigo to be family. Narbe said that he had spoken to Guetigo around 5:00 p.m. on April 10. Guetigo told Narbe that he had issues with his wife and that she had called police. Guetigo further told him that he wasn't going to leave his house and that if the police need to kill him they were just going to have to kill him inside his house. Narbe told Guetigo not to do that and to just go outside. The call disconnected and he never heard from Guetigo again.

A view of Narbe's phone showed that he had a phone call with Guetigo at 5:30 p.m. and that it lasted two minutes. An analysis of Guetigo's phone also shows this same information.

### **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 Deputies Broullard or Eiten were not legally justified in using deadly force against Faustino Guetigo. In other words, a judge or jury would need to conclude that Sgt. Broullard or Dep. Eiten did not reasonably believe that they or others were in imminent danger of great bodily harm from Guetigo.

#### A. Sergeant Broullard

Based upon the totality of the circumstances, Sgt. Broullard's belief that shooting Guetigo was necessary to protect himself and other deputies from great bodily harm was reasonable.

When Sgt. Broullard first saw Guetigo, he was coming up the basement stairs with a large object raised in his right hand. Sgt. Broullard believed this to be a bat, pipe, or sword machete. Any of these objects could inflict great bodily harm. Despite multiple commands to stop, Guetigo continued to go up the stairs with the pipe still raised. At that moment, Sgt. Broullard believed, based upon his experience and training, that Guetigo could inflict great bodily harm to him or other deputies.

This belief was objectively reasonable because the perceived threat of great bodily harm became a reality. Despite being shot multiple times, Guetigo continued to run up the stairs and struck Sgt. Broullard twice with a 2.5 foot metal pipe. One of those strikes did in fact inflict great bodily harm as Sgt. Broullard's head was seriously wounded.

Further, his decision that it was necessary to use deadly force, specifically to fire his gun multiple times, to stop Guetigo's attack was reasonable. In short, an officer may use deadly force to stop another's use of force which could cause great bodily harm or death. That is exactly what Sgt. Broullard did. As the body camera footage makes clear, and as Sgt. Broullard stated, it was as if the bullets had no effect on Guetigo. He continued to charge up the stairs and hit Sgt. Broullard twice. This demonstrates that deadly force was necessary to stop the attack.

#### B. Deputy Eiten

Based upon the totality of the circumstances, Dep. Eiten's belief that shooting Guetigo was necessary to protect himself and other deputies from great bodily harm was reasonable.

Dep. Eiten was in the back of the line of officers entering Guetigo's residence. He was stopped in the doorway when he heard deputies ordering someone to show their hands and to "drop it." He also reported that he heard what sounded like a person running up the stairs. At this point, he had not yet seen Guetigo. Dep. Eiten was then backed into by other officers causing him to back up into the breezeway.

While in the breezeway, Dep. Eiten stated he saw Guetigo "flailing his arms in a striking motion at another deputy" and "forcing his way toward deputies while he was doing this." Dep. Eiten further stated that he saw a "long object" in Guetigo's hand. At the same time, Dep. Eiten heard screaming and gunfire. Based upon what he saw and heard, Dep. Eiten stated that he believed, "in that moment," that Guetigo's actions would result in great bodily harm or death to a deputy. Dep. Eiten drew his firearm and fired one round at Guetigo through the glass window into the residence.

Dep. Eiten's belief that Guetigo actions would result in great bodily harm to a deputy was reasonable. First, Dep. Eiten, through what he heard, understood Guetigo to be resisting with some type of object in his hand. Next, his recitation of what he saw right after that demonstrates that Dep. Eiten believed Guetigo was attacking another deputy. This belief was reasonable because that is what in fact was happening – Guetigo was attacking Sgt. Broullard, twice striking him with a metal pipe.

Dep. Eiten decision to use deadly force – to fire his gun – was reasonable because Guetigo's use of force threatened great bodily harm. At the moment Dep. Eiten reasonably believed Guetigo posed a threat of great bodily harm, Dep. Eiten was justified in using deadly force.

## **VI. Conclusion**

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

Exhibit A: picture of metal pipe used by Guetigo

Exhibit B: Photograph of Sgt. Broullard's injury



Exhibit # A





Exhibit # B