




J. Hanley

WINNEBAGO COUNTY STATE'S ATTORNEY

DATE: September 1, 2022
TO: The People of Winnebago County
FROM: J. Hanley, State's Attorney 

**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: Bradley J. Thompkins**

I. Introduction

On May 28, 2022, a Winnebago County Sheriff's deputy and two Rockford Police officers utilized deadly force against Bradley J. Thompkins. More specifically, officers shot Thompkins and he died as a result of 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 in-car cameras, police body worn cameras, private surveillance video, 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 officers should be charged criminally for their actions that night.

As detailed below, I find that Deputy Arbisi, Officer Black, and Officer Embry'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 is the Task Force commander and Belvidere Police Department Detective Dan Smaha is 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).¹

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.

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 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 – particularly body worn camera footage.

A. At the Casino

On Saturday, May 28, 2022, at approximately 3:54 p.m. Thompkins arrived at the Rockford Casino located at 610 North Bell School Road in Rockford, Illinois. Video evidence from inside the casino shows that Thompkins traveled throughout the casino, gambling and drinking heavily. Around 7:45 p.m., Thompkins was “cut off” and was no longer permitted to purchase alcohol at the bars within the casino.

At approximately 8:00 p.m., Thompkins went to the main entrance and began speaking to a casino security officer. Thompkins told him that security needed to be “beefed up” at the casino. Thompkins then approached another security officer. Thompkins again stated that security need to be beefed up at the casino and that he, Thompkins, had brought his gun into the casino three different times. Based upon Thompkins comments and demeanor, casino security escorted Thompkins to his vehicle, notifying him that he was banned from the casino for 24 hours. Before leaving, Thompkins told casino security that if any police officers followed him he would “shoot them all.”

B. Thompkins Return to the Casino Parking Lot

At approximately 8:20 p.m., Thompkins returned to the casino parking lot in his vehicle. Another casino security officer driving a casino security vehicle in the parking lot observed Thompkins walking towards the main entrance openly carrying a gun. The security officer drove over to Thompkins to make contact with him. Thompkins approached the security vehicle and asked the security officer if he “had a family” while reaching for his waist. Lapore drove away and reported this to other casino security officers. Thompkins returned to his vehicle and began driving around the parking lot. Shortly thereafter, Deputy Wysocki arrived at the casino. The

casino security supervisor told Deputy Wysocki that Thompkins was driving a blue SUV, that he believed that vehicle to be in the southwest part of the parking lot, and that the driver was implying that he had a gun on him and was threatening to use it. A 911 call had also been placed regarding Thompkins presence in the parking lot with a gun.

C. Officers Arrival and Interaction with Thompkins

After speaking to the casino security supervisor, Deputy Wysocki drove behind Thompkins's vehicle in the parking lot and turned on his overhead emergency lights. Thompkins continued to drive through the parking lot, eventually stopping his vehicle near the front/main entrance. Thompkins exited the vehicle holding a black handgun in his left hand. Thompkins was pointing the gun at his head.

While numerous officers eventually arrived on scene, the officers directly interacting with or closest to Thompkins were as follows (in estimated order of arrival): Deputy Wysocki, Officers Black and Embry, Deputy Arbisi, and Officers Nicholson and Krischke.

Deputy Wysocki was the first officer to engage Thompkins. Upon seeing Thompkins gun, Deputy Wysocki removed his department issued firearm and told Thompkins to drop his gun. Deputy Wysocki describes the interaction with Bradley Thompkins as follows:

Bradley immediately told me to back up and I responded to Bradley by saying, "I'm backing up" and started moving back. Bradley also yelled "shoot me!" and I told him I don't want to shoot him. I told Bradley "don't do it, put the gun away, I'm not going to hurt you" and asked Bradley if he was "ok." Bradley responded with "why?". I then pleaded with Bradley to put the gun away and told him "we could talk about it." Bradley responded "there is nothing to talk about" and "what's there to talk about?".

While I attempted to communicate with Bradley, he switched the handgun to his right hand and pressed it against his right temple. I told Bradley "please don't do it." Bradley then started yelling at a civilian who was standing behind me with his cell phone out filming the incident. Bradley told the civilian "do you want to get shot!?" and "get the f*** out of here!".

I continued to try and communicate with Bradley asking what he was doing and pleading with him to put his gun away. I asked Bradley for his name but he refused to give it to me and continued on the civilians behind me and told them to "back up right now" and told the male civilian to "put his video down" and "do you wanna get shot!?". I then told the civilians to move back and they complied.

Bradley then asked me "Are you going to shoot me!?". I responded "no one's going to shoot you." Bradley responded three times "go ahead shoot me."

Other officers began arriving on scene, and as I was moving back, I saw Bradley fire one round in the air. I shouted at Bradley "Dude just stop" and Bradley pointed his finger at me said "shut up I'm talking to him" pointing at Deputy

Arbisi who was now on scene. Bradley once again pointed at me and other Rockford Officers who were standing with me and said “you shut up I want to talk to him” pointing at Deputy Arbisi.

Officers Embry and Black had arrived and encountered Thompkins from the east end of the parking lot, just north of the casino building. They remained to Thompkins east and took cover behind police vehicles. All but Officer Black were utilizing department issued 9mm handguns. Officer Black was utilizing a department issued rifle. Officers Embry and Black had little to no verbal contact with Thompkins.

When Deputy Fabiani arrived, he parked his vehicle in the western portion of the parking lot and approached from the west. At some point, Arbisi was able to garner Thompkins attention and began speaking directly to him. While speaking with Thompkins, Arbisi was directly in front of Thompkins, to the east of Thompkins and facing west.

Deputy Arbisi was attempting to de-escalate the situation, repeatedly asking Thompkins to drop his gun and talk to him and assuring Thompkins he did not want to shoot him. Arbisi told Thompkins that he would get Thompkins the help he needed.

During the interaction with the officers, Thompkins took the gun from his head, pointed it at the sky and fired one round.

D. After Thompkins Fired His Gun

After Thompkins fired his gun, Arbisi continued to attempt to de-escalate the situation. The other officers remained to Thompkins east, taking cover behind police vehicles. Arbisi moved behind a vehicle because Thompkins was moving towards him.

Thompkins then, with his gun still pressed against his head, bent forward and appeared to become emotional. He covered his face with his left hand. Thompkins then stood up, took the gun away from his head and pointed it at the officers to Thompkins left (east). See Exhibit A for a “still shot” taken from Deputy Arbisi’s body worn camera footage.

Deputy Arbisi screamed at Thompkins to drop the gun and fired his weapon. Deputy Arbisi stated that he fired his gun because he was fearful of his own life and that of his fellow officers. Deputy Arbisi believed that he fired his gun six times. The physical evidence demonstrated that he fired ten times.

Officer Black stated that he observed Thompkins point his gun in his direction and that he perceived this to be a threat to him and other officers. He then fired his rifle at Thompkins’ “center mass.” Officer Black fired one round from his rifle.

Officer Embry stated that he observed Thompkins point his gun at him and that he became concerned for his safety, the safety of his fellow officers and the public. Officer Embry then

discharged his firearm, aiming at the center mass of Thompkins. Officer Embry estimated that he fired five to six times. The physical evidence demonstrated that he fired six times.

E. After Thompkins was Shot

After Thompkins was shot, officers ran towards Thompkins. The gun was kicked way from Thompkins and he was placed into handcuffs. Officers then began administering first aid until personnel from Rockford Fire Department arrived and took over those efforts.

Thompkins was transported via ambulance to OSF St. Anthony hospital. Weeks later, Thompkins died at the hospital.

After Thompkins was shot, the Integrity Task Force was activated, arrived on-scene, and took over the investigation.

F. Civilian Witnesses

There were numerous people at the casino that night and the integrity task force team interviewed many of those present. However, all but a few observed Thompkins pointing his gun at officers. After Thompkins fired his gun into the air, those that had been observing the incident “took cover” and did not see Thompkins point his gun at officers. Those that had specific information pertinent to the officers use of deadly force are detailed below.

In a video-recorded interview, M.M., an employee at the casino, told officers that he saw Thompkins holding a gun in the casino parking lot and said it appeared to be a black .45 or 9mm handgun. M.M. said the gun was in Thompkins right hand. M.M. further stated that he saw Thompkins point his gun at officers and that the officers fired at Thompkins. He saw Thompkins fall to the ground.

Another civilian witness, C.W., participated in a video-recorded interview. C.W. stated that she was walking towards the main entrance when she saw Thompkins blue SUV parked near the entrance with a police car behind it. She could see the driver of the SUV looking at his side mirror with a gun to his head. A narrative of her interview is included below:

[After] C.W. realized what was happening, she began to back up and veer to the right towards the parked cars. The cop got out of his car and pulled his gun. The driver (later identified as Bradley J. Thompkins) got out of the vehicle with the gun to his head and walked towards the officer. The officer began to back up to the back of his squad. C.W. said cops began coming from everywhere. There was a white car to the east of Thompkins. The white car was identified as Gregory Hartman and Rachel Goethe. Thompkins was angry and yelling at Hartman to put the phone down and not to be recording him. The cop was telling Thompkins to drop the gun. C.W. heard a shot. People in the parking lot got down and C.W.

looked up and saw Thompkins was still standing and there was a swarm of police. C.W. did not see where the white car went, and there were about 8-10 shots that went off. C.W. thought she heard 8-10 shots. In response to a question of whether she saw Thompkins point his at gun anyone, she said she saw Thompkins switch his hands with the gun² and point the gun at the police quickly.

G. Physical Evidence

Based upon physical evidence taken from the scene and an examination of the officers firearms, it was determined that: Deputy Arbisi fired ten rounds, Officer Black fired one round from his rifle, and Officer Embry fired six rounds.

Paramedics observed four gunshot wounds to Thompkins body, specifically three on his torso and one on his left leg. During the autopsy, two projectiles (bullets) were recovered from Thompkins body. It is not clear which officers shot Thompkins.

Thompkins firearm was identified as a Hi-Point Firearms Model JCP 40 S&W handgun (S/N X7196415). At the time of this incident, Thompkins did not have a valid FOID card as it had been revoked based upon a prior conviction.

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 the officers were not legally justified in using deadly force against Thompkins. In other words, a judge or jury would need to conclude that Deputy Arbisi, Officer Black, or Office Embry did not reasonably believe that they or others were in imminent danger of great bodily harm from Thompkins.

Based upon the totality of the circumstances, Deputy Arbisi, Officer Black, and Officer Embry's belief that shooting Thompkins was necessary to protect themselves and others from great bodily harm was reasonable.

During the incident, Thompkins was wielding a gun, which can inflict great bodily harm, including death. Despite multiple commands to drop his gun, Thompkins failed to do so. Further, Thompkins continued to move towards Deputy Arbisi after being told to back up. Thompkins also fired one round into the air, demonstrating the willingness and ability to fire his gun.

Thompkins then pointed his gun at the officers to his east. Officers Black and Embry belief that they, other officers, and the public were in danger of suffering great bodily harm was reasonable. Further, Deputy Arbisi's same belief was also reasonable. A bullet fired from a gun can inflict great bodily harm and death.

Next, the officers, having that belief, found it necessary to use deadly force, specifically to fire their firearms at Thompkins, to eliminate Thompkins' threat. This was a reasonable response to

² Video evidence shows that Thompkins did not switch hands prior to pointing his gun at officers.

Thompkins actions. Officers may respond to deadly force with deadly force. Additionally, based upon the distance between Thompkins and the officers, the presence of numerous civilians, and how quickly the incident happened, officers were justified in firing at Thompkins.

VI. Conclusion

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



Exhibit # A