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Chippewa County District Attorney's Charging Decision on the Officer Involved Fatality Involving Village of Lake Hallie Officer Adam A. Meyers and Melissa M. Abbott on April 8, 2016

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I. INTRODUCTION

On Monday, April 8, 2016, an officer involved shooting occurred at the Lake Hallie Walmart at approximately 5:11 p.m.

Pursuant to recently enacted legislation under Wisconsin Statute §175.47, the lead investigative agency for this investigation is the Wisconsin Department of Justice Division of Criminal Investigation. WDCI requested that the Chippewa County Sheriff's Department lead the investigation in this matter. The lead investigator in the case is Chippewa County Sheriff's Department Investigator Bradley Lau. The reports of the investigation were filed with me in late April 2016. I commend Chippewa County Sheriff's Department for their thorough investigation of this case.

I base this charging decision upon the Chippewa County Sheriff's Department's investigation and the information obtained from interviews with eye witnesses, including Officer Adam Meyers, the autopsy report, medical and psychological records of Melissa Abbott, photographs of the shooting scene, video and other evidence obtained from the scene.

In the following sections I will provide a summary of the investigation as provided by the Chippewa County Sheriff's Department, analyze the statements of the relevant witnesses, and provide my legal analysis and assessment of the case.

II. BACKGROUND

On Monday, April 8, 2016, at approximately 5:11 p.m., the Lake Hallie Police Department was dispatched to Walmart located at 2786 Commercial Blvd, in the Village of Lake Hallie, Chippewa County, Wisconsin, for a disorderly female who refused to leave the store. Upon entering the store Officer Adam Meyers confronted Melissa Abbott, who was currently mangling bags of fertilizer and dog food with a hatchet. Officer Meyers shouted numerous times to Ms. Abbott to put the weapon down. Instead, Ms. Abbott raised the hatchet above her shoulders and started to charge Officer Meyers. Fearing for his safety and the other shoppers' safety, Officer Meyers shot Ms. Abbott two times. Later that evening, Ms. Abbott died from the gunshot wounds.

III. INITIAL REPORT AND EMERGENCY RESPONSE

On Monday, April 8, 2016, at approximately 5:11 p.m., the Lake Hallie Police Department was dispatched to the Walmart located at 2786 Commercial Blvd, in the Village of Lake Hallie, Chippewa County, Wisconsin, for a disorderly female who refused to leave the store. In route to Walmart, Lake Hallie Officer Adam Meyer was informed by Chippewa County Sheriff's Department Dispatch Center that the woman in question, Melissa Abbott, was a client from the Excel Treatment Center, who was escorted by two workers from Excel Treatment Center, Brittney Potocnik and Lisa Vadnais. Ms. Vadnais notified dispatch that Ms. Abbott is a very violent person and dispatch relayed this information to Officer Meyers.

Ms. Vadnais and Ms. Potocnik remained on the phone with dispatch and relayed at 5:14 pm that Ms. Abbott had armed herself with a weapon, which Ms. Vadnais thought to be a knife. At 5:14 pm, Ms. Vadnais informed dispatch that Ms. Abbott had armed herself with a knife and was walking towards other Walmart shoppers. Dispatch informed Officer Adam Meyers, who

was in route, that Ms. Abbott was currently in possession of a knife and was threatening people with the knife. Ms. Vadnais told dispatch that Ms. Abbott was then walking down the main aisle and heading towards the garden area. Dispatch noted that Ms. Vadnais' voice sounded nervous. Ms. Vadnais then informed dispatch that Ms. Abbott was now located by the dog food and that Ms. Abbott was currently wrecking the bags of weed and feed fertilizer with the hatchet.

Officer Meyers arrived and then shouted to Ms. Abbott several times "drop it". Officer Meyers then yelled "Stop, Stop". Officer Meyers, fearing for his safety and the other shoppers' safety, shot Ms. Abbott two times. Officer Meyers then radioed for EMS to respond. Other officers who responded to the scene rendered aid to Ms. Abbott, with the aid of a nurse who was shopping in the store. Chippewa Fire District EMS arrived on scene and transported Ms. Abbott to Mayo Hospital in Eau Claire, where Ms. Abbott later died.

The scene was immediately secured by officers using barricades and plastic police tape. The distance where Ms. Abbott was lying to the approximate location where Officer Meyers was at the time of the shooting was 17 feet or less.

IV. INDIVIDUALS INTERVIEWED

Lisa Vadnais and Brittany Potocnik

Ms. Vadnais is employed at the Excel Treatment Facility located at the Northern Center grounds. She has worked at the Northern Center for approximately 23 years and for Excel since August of 2015. Ms. Potocnik is a Resident Care Technician at Excel and has been employed by the company for six months. Ms. Vadnais and Ms. Potocnik were accompanying Ms. Abbott on a two hour outing which Ms. Abbott had earned for good behavior. They stopped at Culvers for food then came to Walmart.

Approximately 5:00 pm, Ms. Vadnais and Ms. Potocnik told Ms. Abbott it was time to leave and Ms. Abbott ignored them. They then called 911 and followed Ms. Abbott around the store. Ms. Abbott went to the sporting goods section and took a hatchet off the rack and removed it from its package. Ms. Abbott then started following Ms. Vadnais and Ms. Potocnik down the aisles with the hatchet raised above her head. Ms. Vadnais and Ms. Potocnik told customers to get out of the way and then Ms. Abbott struck a couple of fertilizer bags with the hatchet.

Ms. Potocnik described Ms. Abbott as "dangerous" and she was in fear for her safety. Ms. Potocnik thought that if she would have confronted Ms. Abbott, that Ms. Abbott would have attacked her.

Officer Meyers arrived at the scene and told Ms. Abbott several times to "drop it". Ms. Abbott then raised the hatchet above her head. Ms. Vadnais and Ms. Potocnik thought Ms. Abbott was about to throw the hatchet at Officer Meyers. Ms. Abbott then rapidly moved towards Officer Meyers and he shouted "Stop, Stop". Ms. Abbott did not stop and Officer Meyers fired twice, hitting Ms. Abbott in the leg and abdomen.

Joseph Jacobson

Mr. Jacobson was working at Walmart and noticed a female walking past his counter holding an axe as if she was chopping at something. He walked around the counter and followed the woman with the axe and two other women (Ms. Vadnais and Ms. Potocnik). One of the other females informed Mr. Jacobson that "she has a knife." Mr. Jacobson saw the officer tell Ms. Abbott 2 to 3 times to put the axe down and then saw Ms. Abbott get shot as she continued towards the officer with the axe in the air, swinging it up and down. He stated that after Ms. Abbott had got shot the first time, she continued towards the officer until he shot her a second time. Mr. Jacobson thought the officer had to do what he did as Ms. Abbott did not comply with the officer's request to drop the weapon.

Keri Spegman

Ms. Spegman stated that she was in Walmart shopping for solar lights when she heard someone identify themselves by shouting "Police" and "Drop it": She thought the commands were intended for her and she let go whatever she had in her hand. She then heard someone shout "Drop it" once again. She then noticed she was in the aisle by herself. She heard the command "Drop it" two or three times before hearing two shots ring out. Ms. Spegman then rendered aid to Ms. Abbott after the shooting as she is a medically trained nurse.

Shannon Wheelock

Shannon Wheelock was in Walmart shopping for paint. A woman came into the paint aisle and told her a woman was walking through the paint department with a knife. She then saw a woman with a short handled hatchet walk by. Ms. Wheelock said the hatchet wielding female met the officer at the main aisle junction. Ms. Wheelock heard the police officer yell "drop your weapon" and she turned to see the officer with his gun drawn and trained on Ms. Abbott. Ms. Wheelock then saw Ms. Abbott raise the hatchet above her head like Ms. Abbott was going to throw it at the officer as the officer yelled for Ms. Abbott again to drop her weapon. Ms. Wheelock then saw the officer shoot Ms. Abbott two times.

Jeffrey Clark

Mr. Clark works for Walmart and was assembling grills in the back room when a management code was paged over the radio. As Mr. Clark was walking from the back room, Mr. Clark heard someone yelling "Put down your weapon", approximately three times before two shots rang out. Mr. Clark did not see the shooting.

Heather Brill

Ms. Brill was shopping at Walmart when she heard someone yell "Ma'am, Drop your weapon! Police Department!" Ms. Brill could see Ms. Abbott and described Ms. Abbott's look like she was "high on drugs" and "a look of craze". Ms. Brill could see the hatchet in Ms. Abbott's hand. Ms. Brill saw Ms. Abbott move the hatchet up and down like a tomahawk chop. Ms. Brill remembers the officer shouting "drop your weapon" five or six times before Ms. Abbott raised the hatchet in the air like she was going to throw the hatchet at the officer. Ms. Brill said, then two shots rang out.

Pamela Atter

Ms. Atter was shopping at Walmart and was walking by the dog food section and saw Ms. Abbott. She described Ms. Abbott as "something was wrong with her" and that Ms. Abbott was carrying what Ms. Atter believed was gardening sheers. Ms. Atter saw Officer Meyers point his firearm at Ms. Abbott and shouted "drop it, drop it". Ms. Atter saw Ms. Abbott's arm going up as if she was going to throw something. Ms. Atter stated that Ms. Abbott did not follow the instructions and then the officer fired two shots. Atter stated that "I don't know what she was doing, it didn't look real. I just didn't...I think he had to do it to protect everybody."

Randy Szepi

Mr. Szepi was in Walmart shopping. Mr. Szepi saw Ms. Abbott with a weapon in her hand as she was cutting up the dog food pallet. Mr. Szepi saw Officer Meyers approach Ms. Abbott, draw his firearm and yell to Ms. Abbott to put the knife down. Mr. Szepi said that Ms. Abbott did not follow the officer's instructions and Ms. Abbott took numerous steps toward the officer and the officer shot Ms. Abbott one time. Mr. Szepi stated then Officer Meyers again told Ms. Abbott to put down the weapon and she did not. Ms. Abbott did not and the officer shot her again.

Kenneth Nimmo

Mr. Nimmo was in Walmart shopping and was approximately 15 to 20 feet from Ms. Abbott when she was at the dog food area. Mr. Nimmo saw Officer Meyers approaching Ms. Abbott with his firearm out and called to her at least two times to drop it. Mr. Nimmo stated that Ms. Abbott starting making a throwing motion with her weapon and the officer yelled again to drop it. Mr. Nimmo stated that there was a flinch as if Ms. Abbott was going to throw the weapon and then Officer Meyers shot twice.

V. OFFICER ADAM MEYERS' INTERVIEW

When dispatch gave the call of a disorderly subject at Walmart, Officer Meyers was at the Lake Hallie Police Department finishing a report. Officer Meyers left the Lake Hallie Police Department with lights and siren due to the fact that dispatch informed him that the subject had armed herself with a knife. Officer Meyers pulled up to the middle doors at Walmart, exited his vehicle, entered Walmart and drew his firearm.

As Officer Meyers entered Walmart, people were directing him to the dog food area. Officer Meyers observed numerous people in the store shopping, as it was quite busy. As Officer Meyers reached the lawn and garden area, he saw Ms. Abbott standing alone in the same aisle as Officer Meyers. Ms. Abbott turned and Officer Meyers saw the hatchet in Ms. Abbott's hand.

Officer Meyers shouted "Police. Drop it. Don't move" as he pointed his firearm at Ms. Abbott. Officer Meyers observed numerous people close by who could potentially be harmed by Ms. Abbott and the hatchet. Ms. Abbott was not following Officer Meyers' commands and Officer Meyers stated he was in fear of Ms. Abbott causing great bodily harm to either him or other shoppers close by.

Officer Meyers again told Ms. Abbott to "drop it" and she was not following his commands. Ms. Abbott then started walking towards Officer Meyers. As Ms. Abbott was moving towards Officer Meyers, she was making swooping figure 8 motions with the hatchet. Ms. Abbott was focused on Officer Meyers. Officer Meyers described it as a "standoff" and Ms. Abbott continued to approach Officer Meyers, swinging the hatchet.

Officer Meyers continued to give verbal commands for Ms. Abbott to stop and drop the hatchet, however, Ms. Abbott did not respond to Officer Meyers' orders. Ms. Abbott had the hatchet in a raised fashion between her abdomen and neck area. Officer Meyers backed up because Ms. Abbott was getting too close. Again, Officer Meyers yelled to Ms. Abbott to drop it and she was not complying with his requests. Ms. Abbott kept walking towards Officer Meyers even with Officer Meyers' service firearm pointing at her.

Officer Meyers thought that Ms. Abbott could kill him if she struck him with the hatchet, as the vest he wore was not stab resistant. Ms. Abbott was the same height as Officer Meyers but weighed considerably more than him. While Officer Meyers considered going hand-to-hand combat with Ms. Abbott, his training and experience told him that was not a viable option.

Officer Meyers did not see anyone behind Ms. Abbott and stated he had a clear target acquisition, identification and isolation. Officer Meyers stated he had exhausted all of his options and his only choice left was to fire his firearm to stop the threat, to stop her. Officer Meyers thought that Ms. Abbott was about ten feet away when he fired. Officer Meyers, as per his training, fired twice at Ms. Abbott. Ms. Abbott fell to the ground and the hatchet fell from her hand.

Immediately after the shots, Officer Meyers asked the nearby shoppers to check themselves to make sure no one else was hurt. Then Officer Meyers radioed dispatch for an ambulance and asked a Walmart employee to page the store to see if a doctor or nurse was inside to render aid to Ms. Abbott. A nurse came to Ms. Abbott's aid and then the Chippewa Fire District EM arrived upon the scene.

VI. OFFICER ADAM MEYER'S TRAINING/EXPERIENCE

Officer Meyers earned his Associate's Degree from Gateway Technical College in Kenosha, WI. He worked for six years in Racine as a law enforcement officer, and then was Chief of Police of Elmwood, WI for eighteen months. He also worked part time for the Village of Colfax before coming to Lake Hallie. Office Myers has fifteen years of law enforcement experience and also served in the United States Military. Officer Meyers has been the firearms instructor for the Lake Hallie Police Department for approximately two years, receiving specialized training in Appleton, WI. While employed in Racine, he received the Master Shooter award in 2004 and 2005.

His use of force training, including firearms and defensive and arrest tactics, requires continued training at least three times a year. The training consists of scenarios, the state qualification shoot, shoot/no shoot situations and use of verbalization. Since becoming a firearms instructor, Officer Meyers has attended many ranges as the range officer and is very knowledgeable about the use of force.

VII. MELISSA ABBOTT'S BACKGROUND

Melissa Abbott was a 23 year old female who was admitted on July 1, 2014 to the Excel Treatment Center, located at the Northern Center. She has been diagnosed with depressive disorder, borderline personality disorder, and a mild intellectual disability. She has been hospitalized in the past at Sacred Heart Hospital and Winnebago Mental Health Institute. Due to Melissa's aggressive behaviors, multiple physical and mechanical restraints have been used to manage her challenging behaviors. In the past, she was arrested for hitting a police officer and has threatened suicide and was placed on emergency detention.

While under care, Ms. Abbott has been known to hit, kick, slap, bite, pinch and spit at other patients and staff when upset or aggravated. Ms. Abbott has also aggressed towards staff and has attempted to hit them in the head. On occasion, she has been known to throw objects towards staff, pound on windows and doors and tables, ripped carpeting and chased staff with objects in an attempt to harm them. She has an extensive history of exhibiting self-injurious behavior since 2006. Recently, Ms. Abbott sent numerous letters to Judge Becker in Jackson County threatening to harm her. These letters were signed by Ms. Abbott. Finally, Ms. Abbott has threatened to kill the staff at the Excel Treatment Center.

Ms. Abbott wrote in her journal, a desire to have the police respond, stating: **"WHEN THE COPS GET CALLED I WILL GRAB THEIR GUN AND THERE WILL BE A SHOOTOUT BETWEEN ME AND THE COPS."**

"BETTER YET, I WANT TO DO A SHOOT OUT WITH THE CHIPPEWA POLICE DEPARTMENT AND SEE WHO WINS. WHICH THEY WILL MY LUCK I WILL END UP DEAD... THEN MY FAMILY WILL GET A PHONE CALL THAT I AM DEAD. WHICH I WOULDN'T CARE BECAUSE I WOULD BE OUT OF THIS PLACE..."

VIII. WALMART VIDEO

At approximately 4:08 pm, the video shows Ms. Abbott, Ms. Vadnais and Ms. Potocnik entering the Garden Center. At approximately 5:10 pm, the video shows Ms. Vadnais on her phone while Ms. Vadnais and Ms. Potocnik are walking behind Ms. Abbott near the sporting goods section. Then, Ms. Vadnais and Ms. Potocnik are walking ahead of Ms. Abbott near the paint department, while Ms. Abbott brings her arm and hand above her head and swings it down. It appears that Ms. Abbott struck something in the middle of the aisle. They continue on towards the front of the store as Ms. Vadnais and Ms. Potocnik keep looking back towards Ms. Abbott.

The video then shows Ms. Abbott walking with something in her right hand as Ms. Abbott follows Ms. Potocnik towards the garden center. While in the garden center area, the video shows Ms. Abbott raising her right arm above her head as she is walking and then strikes an unknown object.

The video then shows Officer Meyers running down the aisle towards the garden center. Then Ms. Abbott is shown walking towards Officer Meyers, swinging her right arm with the hatchet above her head. The video then shows Ms. Abbott raising her arm over her head, and as she does so, she continues to walk towards Officer Meyers as he backs up. The video then shows Ms. Abbott dropping to the floor.

IX. LAW ENFORCEMENT STANDARDS

Law enforcement use of force decisions will be evaluated by the courts on a reasonableness standard based on the totality of the circumstances. The landmark case *Graham v. Connor*, 490 U.S. 386 (1989), identifies the three key factors the courts will consider in evaluating the reasonableness of the officer's use of force. These three factors are:

- 1) The severity of the crime committed.
- 2) Whether the suspect posed an immediate threat to the safety of the officers or others.
- 3) Whether the suspect actively resisted arrest or attempted to evade arrest by flight.

In the *Graham* decision, the United States Supreme Court also set the standard for how the judge and jury should determine the reasonableness of an officer's conduct. The courts will **not** look at the subjective mind-set of the officer. Rather, they will compare the officer's conduct with that of a hypothetical "reasonable police officer" confronting the same situation. The court, in an effort to be fair to the police, will not engage in 20/20 hindsight but will evaluate the decision on the totality of the circumstances that were available to the officer at the time the force was used.

There are numerous instances where the use of force would be appropriate and lawful. However, all of these instances fall into two major classifications:

- 1) Defense- defense of the officers or defense of others.
- 2) Control- includes effecting arrest, maintaining a Terry stop, preserving the integrity of a search warrant execution, etc.

In summary, the police may use force to defend or control if such force is objectively reasonable under the totality of the circumstances.

There are two legal issues relevant to deadly force: 1) What is deadly force; and 2) The justification for deadly force. Deadly force by a police officer is an act likely to cause death. While in most instances that would involve shooting, any act likely to cause death would qualify as deadly force.

IX. LAW OF SELF DEFENSE

In Wisconsin, the legislature, like many other jurisdictions, has created numerous affirmative defenses to criminal conduct. An affirmative defense is asserted by a person whose conduct fulfills all of the elements of a crime and would otherwise in fact be criminal but for circumstances that render the conduct justifiable. Self-defense is such an affirmative defense.

The privilege of self-defense allows a person to protect himself, herself, or another person from real or perceived harm when there is no other reasonable option. Under Wisconsin law, a person may resort to force in self-defense in limited circumstances, such as to prevent or terminate an "unlawful interference" with his or her person. In other words, if a person reasonably believes his life is in danger, or that he is likely to suffer great bodily harm, then he has a right to defend himself in such a way and with such force as he reasonably believes is necessary under the circumstances to save his life or protect himself from bodily harm.

Under **Wisconsin Statute Section 939.48**, self-defense is a privilege that can be claimed as an affirmative defense to prosecution for any crime based on an actor's conduct when the conduct is in defense of oneself or other persons. To support a self-defense claim, a defendant "has the initial burden of producing evidence to establish [that] statutory defense" and must show that:

- 1) He or she believed there was an actual or imminent unlawful interference with his or her person;
- 2) He or she believed that the amount of force used or threatened was necessary to prevent or terminate the interference; and
- 3) His or her beliefs were reasonable.

The prosecution has the burden of proving beyond a reasonable doubt that the defendant was not acting lawfully in self-defense. The standard to determine whether the person's beliefs were reasonable is what a person of ordinary intelligence and prudence would have believed in the person's position under the circumstances that existed at the time of the incident, determined from the standpoint of the actor at the time and not from the jury's viewpoint. "The reasonableness of the belief is determined by the standard of a person of ordinary intelligence and prudence under all the circumstances existing at the time of the offense, including the right of such person to act upon appearances."

The law holds that a belief may be reasonable even though mistaken. In determining whether the defendant's beliefs were reasonable, the standard is what a person of ordinary intelligence and prudence would have believed in the defendant's position under the circumstances that existed at the time of the alleged offense. The reasonableness of the defendant's beliefs must be determined from the standpoint of the defendant at the time of the defendant's acts and not from hindsight, i.e., the viewpoint of the jury at the time of any trial.

Wisconsin Statute 940.01(1)(a), states that in order to establish the charge of First Degree Intentional Homicide the defendant must:

- 1) Have caused the death of the victim;
- 2) Have acted with intent to kill; and
- 3) The State must also prove that there was no:
 - a) Adequate provocation;
 - b) Unnecessary defensive force;
 - c) Prevention of a felony; or
 - d) Coercion.

The proof of absence of mitigating circumstances is required when the issue is placed in evidence by the trial evidence, and the burden of proof is on the State. The facts indicate that the absence of mitigating circumstances regarding unnecessary defensive force would be an issue. The question then becomes one of whether the force used was necessary to prevent or terminate an unlawful interference with his person.

If it is found that the State cannot prove unnecessary self-defense, the question then falls into the realm of Second Degree Intentional Homicide under Wisconsin Statute 940.05(1). To prove Second Degree Intentional Homicide, there must be a showing that even though the suspect believed he was acting with proper self-defense, the reasonable man in the suspect's position would not have acted with the degree of self-defense with which the suspect acted.

The suspect is not guilty of any charge if he believed he acted in self-defense, and the reasonable man would have acted with the amount of self-defense with which the suspect acted.

X. FACTS SUPPORTING JUSTIFIABLE SELF DEFENSE AND USE OF DEADLY FORCE

In looking at the facts of this case, it seems that the overwhelming evidence supports a finding of justifiable self-defense and the use of deadly force by Officer Adam Meyers. Those facts are as follows:

1. During the time of the incident, there were numerous people in the area where the incident took place, some as close as fifteen feet.
2. At least two of the witnesses reported that Ms. Abbott went after two people (Ms. Vadnais and Ms. Potocnik) with the hatchet.
3. At least two of the witnesses reported that Ms. Abbott was chopping and stabbing the bags of fertilizer or dog food with the hatchet in a violent manner.
4. All of the witnesses reported that Ms. Abbott did not comply with Officer Meyers' directions to "drop it".
5. At least five people reported Ms. Abbott making a chopping or throwing motion at Officer Meyers as she walked towards Officer Meyers.
6. At least ten witnesses heard Officer Meyers yell two to three times to drop the weapon prior to Officer Meyers shooting.
7. At least ten witnesses heard or reported Officer Meyers shoot twice.
8. One witness felt that Officer Meyers had no choice but to use deadly force to protect himself and the public.
9. Ms. Abbott had a history of violence and not following orders.

XI. APPLICATION OF LAW TO FACTS

Clearly, Wisconsin Statute 940.01(1)(a) First Degree Intentional Homicide, must be reviewed as a human being was shot and killed with the intent to kill. I must then consider whether I can prove that there was no: a) Adequate provocation; b) Unnecessary defensive force; c) Prevention of a felony; or d) Coercion.

The proof of absence of mitigating circumstances is required when the issue is placed in evidence by the trial evidence, and the burden of proof is on the State. The facts indicate that the mitigating circumstances regarding unnecessary defensive force is an issue. The question then becomes one of whether the force used was necessary to prevent or terminate an unlawful interference with his person. Clearly, the facts support that Officer Meyers used defensive force to prevent death or great bodily harm to himself and/or other shoppers.

Since the State cannot prove unnecessary self-defense, the question then falls into the realm of Second Degree Intentional Homicide under Wisconsin Statute 940.05(1). To prove Second Degree Intentional Homicide, there must be a showing that even though the suspect believed he was acting with proper self-defense, the reasonable man in the suspect's position would not have acted with the degree of self-defense with which the suspect acted. Clearly, that is not the case here.

Officer Adam Meyers is not guilty of any charge if he believed he acted in self-defense, and the reasonable man would have acted with the amount of self-defense with which the suspect acted. Anyone who was being attacked with a hatchet, unprovoked, would be in fear for his or her life and/or great bodily harm. It is my opinion that Officer Adam Meyers' belief at the time he used deadly force, was reasonable that he was in fear of his life or other shoppers' lives.

Specific facts which support this belief are:

1. Officer Meyers observed numerous people in the store shopping, as it was quite busy.
2. As Officer Meyers reached the lawn and garden area, he saw Ms. Abbott standing alone in the same aisle as Officer Meyers. Ms. Abbott turned and Officer Meyers saw the hatchet in Ms. Abbott's hand.
3. Officer Meyers shouted "Police. Drop it. Don't move" as he pointed his firearm at Ms. Abbott.
4. Officer Meyers observed numerous people close by who could potentially be harmed by Ms. Abbott and the hatchet.
5. Ms. Abbott was not following Officer Meyers' commands and Officer Meyers stated he was in fear of Ms. Abbott causing great bodily harm to either him or other shoppers close by.
6. Officer Meyers again told Ms. Abbott to "drop it" and she was not following his commands.
7. Ms. Abbott then started walking towards Officer Meyers.
8. As Ms. Abbott was moving towards Officer Meyers, she was making swooping figure 8 motions with the hatchet.
9. Officer Meyers described it as a "standoff" and Ms. Abbott continued to approach Officer Meyers, swinging the hatchet.
10. Officer Meyers continued to give verbal commands for Ms. Abbott to stop and drop the hatchet; however, Ms. Abbott did not respond to Officer Meyers' orders.
11. Ms. Abbott had the hatchet in a raised fashion between her abdomen and neck area. Officer Meyers backed up because Ms. Abbott was getting too close.
12. Again, Officer Meyers yelled to Ms. Abbott to drop it and she was not listening.
13. Ms. Abbott kept walking towards Officer Meyers even with Officer Meyers' service firearm pointing at her.
14. Officer Meyers thought that Ms. Abbott could kill him if she struck him with the hatchet, as the vest he wore was not stab resistant.
15. Ms. Abbott was the same height as Officer Meyers but weighed considerably more than him.
16. While Officer Meyers considered going hand-to-hand combat with Ms. Abbott, his training and experience told him that was not a viable option.
17. Officer Meyers stated he had exhausted all of this options and his only choice left was to fire his firearm to stop the threat, to stop her.
18. Officer Meyers thought that Ms. Abbott was about ten feet away when he fired. Officer Meyers, as per his training, fired twice at Ms. Abbott.

XII. DECISION OF DISTRICT ATTORNEY:

When I review any criminal matter I have the obligation to obtain as much factual evidence as reasonably possible and analyze those facts within the framework of Wisconsin law. I then have an ethical obligation to determine if a crime has been committed and whether the

evidence supports a finding of guilt to the standard of evidence that supports a finding of guilt beyond a reasonable doubt.

I rely heavily on the Chippewa County Sheriff Department's investigation in determining whether Officer Meyers has committed a crime in relation to the decision to use lethal force in the performance of his duty. As has been stated several times, when a reasonable officer in the position of Officer Adam Meyers, based on all the facts occurring at that time, reasonably perceives that he is confronted with a situation exposing him to death or great bodily harm, he is allowed to use force---not to wound or kill---but to stop the threat.

The overwhelming evidence in this case supports a finding that Officer Adam Meyers acted in self-defense and that his belief that he reasonably believed his life was in danger, or that he was likely to suffer great bodily harm, when Ms. Abbott refused to follow orders and charged Officer Meyers with a hatchet. Officer Meyers had the right to defend himself in such a way and with such force as he reasonably believed was necessary under the circumstances to save his life or protect himself from bodily harm.

This was a tragic incident for Officer Meyers and all of the Chippewa County Law Enforcement Community, but based on all the evidence and analysis presented in this report, I conclude that Officer Adam Meyer's use of deadly force in this incident was justified self-defense and that defense cannot be reasonably overcome to establish a basis to charge Officer Meyers with a crime.

Respectfully,



Steven H. Gibbs
Chippewa County District Attorney