



OFFICE OF THE
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WALWORTH COUNTY

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February 1, 2019

Sheriff Kurt Picknell
Walworth County Sheriff's Office
Elkhorn WI 53121

RE: Sean A. Dutcher Death Investigation
DA Case No. 2018WL002466

Dear Sheriff Picknell:

I am writing this letter following the investigation into the death of Sean Dutcher, which occurred on October 18, 2018. The investigation of Mr. Dutcher's death was conducted by the Department of Justice, Division of Criminal Investigation, with the assistance of the Kenosha County Sheriff's Office. In my capacity as Walworth County District Attorney, I reviewed investigative reports, body camera videos, squad videos, 911 and dispatch recordings, photographs, and lab reports from the investigation. I also personally viewed the scene on the evening of the incident. After carefully reviewing the evidence, I have formed the opinion that the shooting of Mr. Dutcher by law enforcement was privileged and a reasonable exercise of self-defense and defense of others pursuant to Wisconsin Statutes §§ 939.45 and 939.48.

On October 18, 2018, at approximately 9:45 pm, Walworth County dispatch received a transferred 911 call from Waukesha County dispatch. The caller was a concerned citizen travelling southbound on Highway 67 towards Walworth County. The concerned citizen reported that there was a reckless driver also travelling southbound on Highway 67 and they were about to enter Walworth County. The concerned citizen stated that the reckless driver almost side-swiped a tractor trailer and was swerving all over the road. While on the phone with dispatch, the concerned citizen observed the reckless driver drive through an intersection while almost striking the stop sign. The reckless driver continued to swerve on the road and the concerned citizen followed the reckless driver on Highway 67 towards Elkhorn. The concerned citizen stayed on the phone with dispatch until a Walworth County Sheriff's Deputy pulled onto the road behind the suspect vehicle.

The suspect vehicle was a black Hyundai Tucson being operated by a male who was later identified as Sean A. Dutcher. No passengers were in the vehicle. It was later learned that Mr. Dutcher was on extended supervision as part of a prison sentence he was serving for his fifth OWI conviction. Subsequent laboratory testing of Mr. Dutcher's blood showed a blood alcohol concentration of .232 g/100mL at the time of his death. That blood alcohol concentration is more than twice the standard legal limit of .08 g/100mL and more than ten times Mr. Dutcher's legal limit of .02 g/100mL, which is a lower legal limit due to Mr. Dutcher's multiple prior OWI convictions. Mr. Dutcher's blood also tested positive for the presence of Delta-9 THC, the active ingredient in marijuana. Mr. Dutcher's driver's license was revoked at the time of the incident due to his multiple prior OWI convictions.

The Sheriff's Deputy who pulled behind the black Tucson observed the black Tucson tailgating a vehicle, weaving within its lane, crossing the white fog line, and crossing the yellow center line. The Sheriff's Deputy activated the red and blue lights on his squad car and Mr. Dutcher pulled the black Tucson over to the side of the road, but continued driving at a slow rate of speed. Mr. Dutcher then pulled back onto the roadway and began to flee from law enforcement.

The Sheriff's Deputy began a pursuit of the black Tucson. Multiple squad cars, with their lights and sirens activated, joined and assisted with the pursuit. During the pursuit, Mr. Dutcher continued to swerve and enter into the lane of oncoming traffic. After receiving approval from a Sheriff's Sergeant, deputies attempted PIT (Pursuit Intervention Technique) maneuvers on the black Tucson. After several attempts, a successful PIT maneuver caused the black Tucson to a stop near a manufacturing business located on East Centralia Street in the City of Elkhorn, Walworth County, WI.

When the black Tucson stopped, five squad cars attempted to box in the vehicle to prevent it from moving. Deputy Peter Wisnefsky, of the Walworth County Sheriff's Office, was assisting with the pursuit and positioned the front of his squad car angled against the front driver's side of the black Tucson. Deputies exited their squads with firearms drawn, ordering Mr. Dutcher to put his hands up. When Deputy Wisnefsky exited his squad car, Deputy Wisnefsky was standing in front of the black Tucson. Other deputies opened the driver's side door of the black Tucson and attempted to remove Mr. Dutcher from the vehicle. While a deputy was standing within the open door of the black Tucson, Mr. Dutcher put the vehicle in reverse and accelerated a short distance backwards, creating distance between the black Tucson and Deputy Wisnefsky's squad car. Mr. Dutcher then quickly accelerated forward, driving in the direction of Deputy Wisnefsky and striking Deputy Wisnefsky's squad car near where Deputy Wisnefsky was standing. Deputy Wisnefsky fired ten rapid shots at Mr. Dutcher, striking Mr. Dutcher two times in the chest. The black Tucson pushed past Deputy Wisnefsky's squad car while turning to the right. The black Tucson broke away from the squad cars and accelerated, driving across grass, a parking lot, and through the wall of the nearby manufacturing business. The manufacturing business was occupied by an employee who was not injured during the crash. Mr. Dutcher was deceased in the driver's seat of the vehicle when he was located by deputies a short time later.

The evidence shows that Deputy Wisnefsky reasonably perceived Mr. Dutcher's actions as an attempt to cause death or great bodily harm to Deputy Wisnefsky or another person. Therefore, I believe that Deputy Wisnefsky was justified in using deadly force to protect himself and the other law enforcement officers who were attempting to remove Mr. Dutcher from the motor vehicle. I do not believe that an inquest is necessary in this case, because I do not believe that a jury could reasonably reach any other conclusion.

I continue to offer sincere condolences to the family and friends of Mr. Dutcher. His death leaves a wake of frustration and sadness. I appreciate the cooperation of the Sheriff's Office during DCI's investigation. Thank you for your attention to this matter. Please feel free to share this letter with whomever you deem appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read 'ZSW', with a stylized flourish at the end.

Zeke S Wiedenfeld
Walworth County District Attorney

CC: Wisconsin Department of Justice, DCI

ZSW:zsw