

Administrative Review of Officer Involved Shooting/Death

Eau Claire Police Department Case # 24PD23000

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Eau Claire Police Department Case # 24PD023000

Executive Summary

This Administrative Review used all available resources to examine Detective Becker's compliance with Eau Claire Police Department policy and procedure during a SWAT response that resulted in the use of deadly force on December 22, 2024. It concludes that Detective Becker's actions, based on the totality of circumstances, were objectively reasonable and appropriate, based on current best practices and policy.

Introduction

This administrative review will examine Detective Zac Becker's involvement in the Officer Involved Death (OID) of Matthew H. Luke (07/24/1975) through the study of the facts of the incident. Detective Becker's use of deadly force with respect to Eau Claire Police Department policy and procedure will also be examined.

These facts were gathered from Officer reports, body-worn video, interviews with involved personnel, and the homicide investigation conducted by the Wisconsin Department of Justice-Division of Criminal Investigations. The criminal component of this incident was reviewed by Chippewa County District Attorney Wade Newell.

This administrative review will identify specific policies, best practices, and training relevant to Detective Becker's initial response and use of deadly force. The "findings" section of this review will identify whether Detective Becker's response and use of deadly force were appropriate and objectively reasonable under the circumstances of this incident.

Detective Becker is one of eight department members who are part of the Eau Claire County Regional SWAT Team. While not the only department member present, Detective Becker was the only Eau Claire Police Department employee to fire his weapon and utilize deadly force; therefore, the scope of this examination will focus solely on Detective Becker's actions.

In the interest of brevity, sections of policy that are not relevant or applicable to this review were removed. The full use of force policy is available on the City of Eau Claire website at, www.eauclairewi.gov/government/our-divisions/police-department/public-information.

Summary of Incident

On December 21, 2024, at 2331 hours, Deputies with the Chippewa County Sheriff's Office responded to a domestic dispute at 3822 192nd Street, Township of Lafayette, Chippewa County. According to the victim, prior to the arrival of law enforcement, Matthew J. Luke fired a gun multiple times inside of his residence. Luke then fled in a vehicle. Law enforcement responded to the home to meet with the female victim, while other law enforcement began searching the area for Luke. Law enforcement had a reasonable belief that Luke had fled the residence with a firearm.

A short time later, law enforcement located Luke and attempted to conduct a high-risk traffic stop. Luke failed to comply, and a high-speed pursuit was initiated. The pursuit continued until Luke slid off the roadway, crashing his vehicle near the intersection of 50th Avenue and CTH K in Chippewa County. The vehicle had slid down a steep embankment, coming to rest approximately 30 feet off the south shoulder, facing east, perpendicular to the road.

Multiple law enforcement officers stopped their vehicles west and behind Luke's vehicle and began giving commands for him to surrender. At one point a group of officers advanced towards the suspect vehicle on foot. As they got close, they observed Luke sitting in the driver's seat with the rifle on his lap. They quickly returned to cover behind multiple squad cars parked on the road.

While giving commands and formulating a plan to take Luke into custody, law enforcement officers were shot at by Luke. Multiple rounds were fired. Some of these rounds struck law enforcement vehicles, nearly striking personnel as they took cover.

Based on the shots being fired, Chippewa County Sheriff's Lieutenant, Darren Williams, contacted ECSO Regional SWAT Commander Dustin Walters for assistance. Once briefed on the facts, Lieutenant Walters conducted a full SWAT call-in. Detective Becker received the call-in at 0128 hours on December 22, 2024. The call-in stated law enforcement was in "armed contact" with a subject.

Once on scene, Detective Becker was paired with Sgt. Brandon Ring from the Eau Claire County Sheriff's Office. Both are designated snipers on the team and were instructed by Lieutenant Walters to deploy as a sniper/observer team. Detective Becker and Sergeant Ring took up an observation position approximately 50 yards west of and behind the suspect vehicle.

From this position, both Detective Becker and Sergeant Ring could see the back end or trunk area of the suspect vehicle. During the initial deployment Sergeant Ring and Detective Becker were equipped with their scoped, precision .308 sniper rifles. Based on the terrain, both were utilizing tripods. Prior to the shooting, Detective Becker redeployed with his M4 .223 rifle, equipped with a 1 to 1 red dot sight.

As the armored Bearcat moved into position alongside the suspect vehicle, Detective Becker recalled hearing continuous commands over the loudspeaker identifying them as law enforcement and additional commands similar to “this is the Eau Claire SWAT team, you are under arrest. Come out with your hands raised”. The armored vehicle has “Eau Claire County SWAT” stenciled in large letters on both sides. In addition, the red and blue emergency lights were activated when commands were being given.

After approximately 15 to 20 minutes of commands, Detective Becker heard two loud gunshots. He learned over the radio that Luke was shooting at law enforcement. Detective Becker feared for the safety of the SWAT operators in and around the Bearcat, perimeter law enforcement officers, and the surrounding community. He felt that if he didn’t use deadly force, the suspect would likely kill someone. Detective Becker leaned out from the left side of cover and fired three shots from his M4 rifle at the rear of the vehicle. He did this to prevent the suspect from firing additional rounds. This was followed shortly thereafter by two more shots. It was later learned that these last two rounds were fired by ECSO Regional SWAT operator WSP Trooper Desprez.

Next, Detective Becker heard via police radio that Luke was observed in the vehicle with the rifle pointing out the driver’s window. Luke was not moving. To confirm that it was safe to approach and render aid, another SWAT officer fired a 40mm less lethal foam round at Luke from the armored vehicle and received no response. Lieutenant Walters tasked a shield team with making an approach on the vehicle. Once at the vehicle, a medic checked for signs of life and confirmed that Luke was deceased.

Initial Response

Facts:

Detective Becker is a member of the Eau Claire County Regional SWAT team. On April 4, 2024, the Eau Claire Police Department and Eau Claire County Sheriff’s Office entered into a memorandum of understanding whereby members of the Eau Claire Police Department would merge its SWAT team with the Regional SWAT team. Detective Becker is one of those officers. The location of this incident, in Chippewa County, falls within the jurisdiction of Regional SWAT operations.

After receiving the page for a SWAT response, Detective Becker left from his residence directly to the scene. The initial call for SWAT was made because Matthew H. Luke (07/24/75) had fired rounds during the domestic incident, had crashed his car, and was still armed and barricaded inside of his vehicle. Probable cause existed to arrest him for multiple violent crimes. Luke was a danger to the public and law enforcement had a duty to arrest him. Furthermore, his arrest could not be done safely without the assistance of SWAT. While enroute to the scene, Detective Becker learned that Luke had now fired additional rounds, this time, at law enforcement. The following are things that were known to Detective Becker once he deployed with Sergeant Ring.

- Probable cause existed to arrest Matthew H. Luke.
- Luke was armed with a centerfire hunting-type rifle.
- Luke refused to surrender peacefully despite commands to do so.
- Luke was barricaded in his crashed vehicle.

- Luke was the only person in the vehicle.
- Luke had fired multiple rounds at responding law enforcement as they attempted to arrest him. Detective Becker was also told that Luke's shots had struck law enforcement vehicles.
- The area of operation was an "open air" environment, presenting additional danger to the surrounding community and law enforcement on scene.
- A hunting-type rifle is extremely dangerous. It can defeat intermediate barriers such as vehicles and trees and can be lethal hundreds of yards beyond the established perimeter.

Despite the dangers presented by a hunting rifle, law enforcement officers on scene of this incident had a duty to maintain a tight perimeter for fear that Luke would escape and/or harm innocent bystanders. As stated before, many of them were unwittingly within the area of operation simply by virtue of the weapon Luke was armed with.

Detective Becker responded to the scene outside of the city limits of Eau Claire. His response and subsequent actions were as a member of the Eau Claire County Regional SWAT team. The Eau Claire County Regional SWAT team is tasked with providing SWAT resources to a geographically large regional area. Detective Becker's response to this incident is covered under mutual aid and the MOU between the City and County of Eau Claire.

The National Tactical Officers Association aims to establish best practices for law enforcement agencies and their tactical response to critical incidents. The Eau Claire County Regional SWAT team adheres to these best practices and trains on them every month.

The following is an excerpt from the most recent update provided in 2023 by the NTOA on safety priorities. These safety priorities are used to assist decision makers in critical incidents.

NTOA Safety Priorities:

1. Hostages/Victims
2. Innocent Bystanders/The Public
3. Public Safety Personnel/SWAT/EMS
4. Hostage Taker/Suspect

The National Tactical Officers Association (NTOA) created the safety priorities to provide decision-makers with a model based on sound doctrine, law, policy, ethics, and tactical principles. Entities within the model are categorized based on an individual's potential jeopardy and ability to control the overall outcome of the situation. The greater the potential danger or lesser the ability to control the outcome, the higher that entity rests in the Safety Priorities.

The objective of a situation is the overarching reason for law enforcement involvement and the basis for planning and decision-making. In the chaos of tense, uncertain, and rapidly evolving situations, command and line-level personnel must clearly understand and apply risk mitigation practices in congruence with this principle (NTOA 2023).

Response Findings

Detective Becker's response to this incident is consistent with the MOU between the Eau Claire Police Department and the Eau Claire County Sheriff's Office, specifically section 3, which addresses an Eau Claire Police Officers response under the privileges and rules of mutual aid, as defined by §66.0313, Wis. Stats.

In addition, Detective Becker was taking orders from Lieutenant Dustin Walters, the on scene Tactical Commander. Lieutenant Walters was aware that Luke was armed with a rifle and had already exhibited his willingness to shoot at police. For Lieutenant Walters to make sound tactical decisions, he needed Detective Becker and Sergeant Ring to deploy as forward observers and report information back to the command post.

Luke's actions posed a significant threat to the public and law enforcement; therefore, Lieutenant Walters' orders to Detective Becker were lawful, appropriate, and within the guidelines of the memorandum of understanding, specified in section 6.

Lastly, the NTOA safety priorities necessitated a SWAT response and the arrest of Luke. As outlined in the safety priorities, Luke posed a significant risk to not only law enforcement, but innocent bystanders/public, as well.

Use of Force

Facts:

As has been established, Detective Becker was lawfully present as a member of the Eau Claire County Regional SWAT team. He and his sniper/observer team partner, Sergeant Ring, were properly deployed with orders from Lieutenant Walters. As they moved into the scene, their primary duty was to observe and report any changes to the SWAT Commander and Incident Commander (CHSO Lieutenant Williams).

Detective Becker was positioned behind the left, rear quarter panel of an unmarked Chippewa County squad car. Sergeant Ring was positioned opposite him, along the right, rear quarter panel. Their position was approximately 50 yards from the 6 o'clock position of Luke's vehicle. Detective Becker first deployed with his precision .308 rifle with magnified optics. Based on his position, he found this to be unsafe as too much of his body would be exposed to gunfire. The terrain was such that he and Sergeant Ring were required to use elevated tripods instead of a traditional "prone" shooting position. Detective Becker chose to stow his .308 rifle and re-deployed with his M4. This allowed for better freedom of movement, plus, Sergeant Ring was still deployed in essentially the same position with his precision .308 rifle. Of note, Detective Becker's M4 rifle has a 1 to 1 optic affixed to it.

Detective Becker saw one of the armored rescue vehicles pull up alongside Luke's vehicle. Detective Becker heard commands over the PA system identifying them as law enforcement and for Luke to surrender. He also noted that the red and blue emergency lights were flashing and the siren was periodically turned on to get Luke's attention.

After approximately 15 to 20 minutes of commands, Detective Becker heard two loud gunshots. He quickly learned over the radio that Luke was shooting at the armored vehicle. This posed a threat to

all law enforcement and the public, not just the SWAT team. Detective Becker immediately moved out from his position of cover and fired three deliberate and aimed shots in rapid succession at the rear hatch of Luke's vehicle. From his vantage point, this was the only target that he could direct his rounds at. Detective Becker knew that other law enforcement personnel were deployed in and around the rescue vehicle alongside Luke's vehicle. Simultaneous with Detective Becker, other SWAT members were in the process of maneuvering and giving verbal commands. The three rounds fired by Detective Becker were fired to stop Luke from shooting and allow law enforcement personnel to find cover or conduct other tactical maneuvers. This was followed shortly thereafter by two more shots. It was later learned that these last two rounds were fired by ECSO Regional SWAT operator WSP Trooper Desprez. His shots were fired from the armored vehicle alongside Luke's vehicle.

After Detective Becker and Trooper Deprez fired, SWAT personnel advised that Luke's rifle was still visible, sticking out of the driver's window. Luke was not moving, but posed a threat as he was still holding the rifle. Lieutenant Walters ordered 40mm less lethal foam rounds be fired at Luke to illicit a response. Luke was struck in the chest, but did not move. SWAT personnel eventually felt it was safe enough to move forward and removed the rifle from the vehicle. A SWAT medic was brought forward. They determined that Luke's head wound(s) were catastrophic and no life saving measures were attempted. It was later learned at autopsy that Luke had been struck twice in the head and once in the left hand.

Following the use of deadly force, Detective Becker turned his M4 rifle over to Officer Aaron Schiefelbein. Officer Schiefelbein subsequently turned Detective Becker's rifle over to Sergeant Prorok, a Team Leader with the Eau Claire County Regional SWAT team.

Per policy 300.5.1, which is attached, all proper notifications were made to the Eau Claire Police Department's Command staff.

Lastly, per policy 300.5.2, which is attached, the Wisconsin Department of Justice, Division of Criminal Investigation was notified to handle the investigation into the law enforcement use of deadly force.

USE OF FORCE

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force (Wis. Stat. § 66.0511(2)).

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner. When safe under the totality of circumstances, and when time and circumstances permit, officers shall prioritize de-escalation tactics in order to reduce the need for force.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or great bodily harm. Deadly force includes the intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm.

De-escalation - De-escalation is a concept that involves an officer's use of time, distance, and relative positioning in combination with professional communication skills to attempt to stabilize a situation and reduce the immediacy of threat posed by an individual.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.

Imminent - About to happen, impending. An imminent threat is an immediate threat.

Totality of the circumstances - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Eau Claire Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

300.2.1 DUTY TO INTERVENE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent or stop the use of unreasonable force (Wis. Stat. § 175.44).

Any officer who intervenes and/or observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations and/or intervention to a supervisor as soon as practicable after the occurrence of the use of force (Wis. Stat. § 175.44).

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.2.3 ADDITIONAL CONSIDERATIONS

The duty to intervene and report applies without regard to the chain of command.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.3.2 USE OF FORCE TO EFFECT AN ARREST

A law enforcement officer may use reasonable force to arrest a person or execute a warrant. Additionally, a law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer (Wis. Stat. § 968.07; Wis. Stat. § 968.14).

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- a. Immediacy and severity of the threat to officers or others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c. Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d. The effects of suspected drug or alcohol use.
- e. The individual's mental state or capacity.
- f. The individual's ability to understand and comply with officer commands.
- g. Proximity of weapons or dangerous improvised devices.
- h. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- i. The availability of other reasonable and feasible options and their possible effectiveness.
- j. Seriousness of the suspected offense or reason for contact with the individual.
- k. Training and experience of the officer.
- l. Potential for injury to officers, suspects, and others.
- m. Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

- n. The risk and reasonably foreseeable consequences of escape.
- o. The apparent need for immediate control of the individual or a prompt resolution of the situation.
- p. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- q. Prior contacts with the individual or awareness of any propensity for violence.
- r. Any other exigent circumstances.

300.3.5 ADDITIONAL REQUIREMENTS

Any use of force by an officer shall be undertaken in good faith to achieve a legitimate law enforcement objective.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify himself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- a. An officer may use deadly force only as a last resort when the officer reasonably believes that all other options have been exhausted or would be ineffective, and only to stop behavior that has caused or imminently threatens to cause great bodily harm or death to the officer or others.
- b. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of great bodily harm or death, and the officer reasonably believes that there is an imminent risk of great bodily harm or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where both practical and feasible.

However, an officer should not use deadly force against a person whose actions are a threat solely to himself or property.

An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing great bodily harm or death without a weapon, and the officer believes the individual intends to do so.

300.4.2 TARGET REQUIREMENTS

When an officer has determined that deadly force is necessary and all other reasonable alternatives having been precluded, the officer must fulfill certain "target requirements." These include the following:

- **TARGET ACQUISITION:** Does the officer have a target?
- **TARGET IDENTIFICATION:** Even if the target has been "acquired," the officer cannot shoot until the target has been identified as an individual placing the officer and/or others in "imminent danger", and;
- **TARGET ISOLATION:** The officer must make every reasonable effort to isolate the target from other innocent persons. An exception to the target isolation requirement arises when withholding the application of deadly force results in a greater danger than the use of deadly force itself.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- a. The application caused a visible injury.
- b. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- c. The individual subjected to the force complained of injury or continuing pain.
- d. The individual indicates intent to pursue litigation.
- e. Any application of Oleoresin Capsicum Spray, Electronic Control Device, Passive Countermeasure or Protective Alternative.
- f. Any application of a restraint device other than handcuffs, shackles, or belly chains.
- g. The individual subjected to the force was rendered unconscious.

- h. An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 REPORTING TO WISCONSIN DEPARTMENT OF JUSTICE

Statistical data regarding all qualifying use of force incidents is to be reported to the Wisconsin Department of Justice as required by Wis. Stat. § 165.845. For the purposes of this section, a qualifying use of force incident means any incident (Wis. Stat. § 165.845):

- a. Involving the discharge of a firearm by an officer at or in the direction of a civilian.
- b. Involving the discharge of a firearm by a civilian at or in the direction of an officer.
- c. Involving any action taken by an officer in response to an act of resistance that results in great bodily harm or death (Wis. Stat. § 939.22).
- d. Involving an act of resistance taken by a civilian against an officer that results in great bodily harm or death.

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be

considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

Use of Force Findings

The mere presence of the Eau Claire County Regional SWAT team is considered a level of force. Their presence and tactics were reasonable and appropriate given the deadly threat posed by Luke. Based on their training and experience, they first established a perimeter, preventing Luke from fleeing, which would have posed a greater threat to the community had he escaped. The 20 minutes of verbal commands prior to the utilization of deadly force gave Luke the option to surrender peacefully without any further violence. These efforts, commanded by Lieutenant Walters are a trained tactic aimed at de-escalation, in hopes of reducing the need for an escalation of force. Luke made the choice not to surrender and continued firing at law enforcement. It is reasonable to conclude that Luke saw the law enforcement presence and heard their commands for him to surrender.

As previously stated, Detective Becker had a series of facts known to him at the time, which helped inform his decision to use deadly force. Detective Becker feared not only for his own safety, but for the safety of the SWAT operators in and around the tactical vehicles, perimeter law enforcement officers, as well as the surrounding community. He felt that if he didn't use deadly force, the suspect would likely kill someone. Any use of force short of deadly force was precluded as Luke was actively firing a rifle at people. When police officers are faced with a deadly force threat, any use of force short of deadly force are deemed to have been exhausted or would have been ineffective. Detective Becker reasonably believed that Luke's actions imminently threatened to cause great bodily harm to himself and all personnel on site.

Detective Becker leaned out from the left side of cover and fired three deliberate and target-specific shots from his M4 rifle at the rear hatch of the vehicle where Luke was known to be the lone occupant. This use of target-specific directed fire was taught to Detective Becker at the police academy and through on-going training on best practices for SWAT teams. It is defined in the Wisconsin Law Enforcement Academy student manual as "purposeful, controlled, sustained fire directed at a perpetrator who has caused or imminently threatens to cause death or great bodily harm to you or others, but whom you may not be able to clearly observe". The National Tactical Officers Association similarly defines target specific directed fire as "controlled gunfire that is directed at the suspect, reducing the suspect's ability to return fire while a tactical team or other element or individual movement is conducted".

From Detective Becker's vantage point, there was one line-of-sight target that he had to Luke; this was the rear hatch of Luke's vehicle. His purpose in using this trained response to shoot at this area was to stop Luke from shooting at law enforcement. He feared that if he didn't stop the threat, Luke would continue shooting, not allowing law enforcement to find cover or conduct other tactical maneuvers.

Policy states that when an officer has determined that deadly force is necessary, they must first fulfill certain target requirements: target acquisition, target identification, and target isolation.

Target Acquisition: Detective Becker acquired a target. While Detective Becker could not clearly observe Luke, Detective Becker knew that Luke was the only occupant and fired at the area he best knew Luke to be in the passenger compartment.

Target Identification: Luke was identified as the lone occupant (target) and the person shooting at law enforcement, creating the "imminent danger".

Target Isolation: Detective Becker was able to isolate Luke from all other innocent people prior to using deadly force.

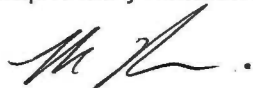
Conclusion

This Administrative review concludes that Detective Becker's actions were appropriate and objectively reasonable based on the totality of the circumstances and guidelines set forth in Eau Claire Police Department Lexipol policy and pertinent best practices.

This administrative review is a comprehensive report intended to evaluate Detective Becker's response and use of deadly force. The facts used as a basis for these findings included the criminal investigative case file completed and submitted by Special Agent Dave Klienmans with the Wisconsin Department of Justice-Division of Criminal Investigation (DCI), police reports, body worn camera footage, as well as Eau Claire and Chippewa County Communications Center audio. All relevant policies, NTOA best practices, 720 hour recruit student manual, and the SWAT MOU, were identified and used to evaluate Detective Becker's actions and decision making during this incident.

Chippewa County District Attorney Wade Newell conducted a criminal review of this incident and concluded that Detective Becker's use of deadly force was justified as a reasonable act of self defense and defense of others.

Respectfully submitted,



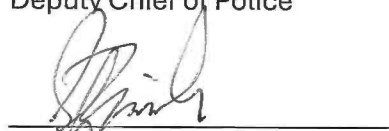
Lieutenant Mark Pieper

Reviewed by:

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Ben Frederick

Deputy Chief of Police

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Stephen Nick

City Attorney

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Matt Rokus

Chief of Police

MEMORANDUM OF UNDERSTANDING

between the

Eau Claire County Sheriff's Office

and the

Eau Claire Police Department

Purpose:

The purpose of this memorandum of understanding ("MOU") between the aforementioned parties is to establish a formal framework for joint actions involving the parties as it relates to the participation of having officers from the Eau Claire Police Department join with the Eau Claire County Sheriff's Office Special Weapons and Tactics Team ("SWAT").

Term:

Services under this Agreement shall commence on 6/1/2024 and shall continue through December 31, 2025 unless terminated by either party upon a 30-day written notice provided via certified mail, return receipt requested. This Agreement shall automatically renew itself annually for one (1) year terms unless terminated as described above provided that the Eau Claire Police Chief and Eau Claire County Sheriff review this MOU on an annual basis with affirmation of revision acknowledged in writing.

1. The Eau Claire County Sheriff's Office and the Eau Claire Police Department recognize the requirement and duty to provide citizens with proficient, well-equipped, and professional law enforcement services. The ability to respond to extremely volatile and dangerous emergency situations is a component of those law enforcement services. Law enforcement has an obligation to protect all members of the public. The purpose of having a multi-jurisdictional SWAT team is to save lives by providing tactical solutions that increase the likelihood of de-escalation and the safe resolution of high risk incidents that are beyond the capabilities of first responders or investigative units.
 2. The Eau Claire County Sheriff's Office, in conjunction with other West Central Region law enforcement agencies, has a group of sworn law enforcement officers that serve as members of a specially trained group referred to as the Special Weapons and Tactics Team ("SWAT"). The Eau Claire County Sheriff's Office is the organizing and fiscal entity responsible for the SWAT Team and has contracted with Wisconsin Emergency Management to provide SWAT services in the West Central Region.
 3. The Eau Claire Police Department will provide officers as members of the Eau Claire County Sheriff's Office SWAT and respond when possible to SWAT Team callouts when the SWAT
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callout aligns with the Eau Claire Police Department policies. While responding, the Eau Claire Police Department officers will fall under the privileges and rules of the Mutual Aid Statute §66.0313, Wis. Stats.

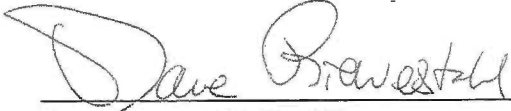
4. The Eau Claire Police Department officers, while working as an Eau Claire County Sheriff's Office SWAT Team member, shall remain an Eau Claire Police Department employee at all times. It is also understood that the officer's wages, while working as a SWAT member, shall be paid by the Eau Claire Police Department. This includes training hours and actual callout hours.
 5. Within the City of Eau Claire corporate limits, the SWAT Team shall operate using a "home rule" system, whereby the Eau Claire Police Department shall be the primary law enforcement agency directing SWAT Team response, through an incident command system, which may include a unified command. Unified command may consist of a supervisor of the Eau Claire Police Department, the SWAT Team Commander, the City's risk manager, and a supervisor of the Eau Claire Fire Department. Unified command shall relay orders to the SWAT Team through the SWAT Commander. The SWAT Team Commander may be an officer of the Eau Claire County Sheriff's Office and may independently make tactical decisions, including those related to the location of equipment or supplies and the position of personnel.
 6. The Eau Claire Police Department officers, while activated and serving as an Eau Claire County Sheriff's Office SWAT Team member, are under the command and direction of the Eau Claire County Sheriff, or if in the City of Eau Claire, under the command and direction of incident command. Furthermore, it is understood that the Eau Claire Police Department officers shall comply with all lawful orders given by the SWAT Team Commander during the deployment, activation and training of the SWAT Team only so long as these lawful orders are consistent with Eau Claire Police Department policy. In the event an Eau Claire Police Department SWAT platoon/squad leader cannot join a SWAT Team response, an Eau Claire Police Department supervisor shall designate an officer as lead of those Eau Claire Police Department officers joining the SWAT Team response.
 7. The Eau Claire Police Department officers will have completed a basic SWAT course or equivalent or be required to attend training at the expense of their home agency.
 8. The Eau Claire Police Department officers may attend the scheduled training sessions when practical. The Eau Claire Police Department officers may be excused from this training requirement upon the written approval of the SWAT Team Commander and/or Eau Claire Police Department command. All injuries during training are the responsibility of the Eau Claire Police Department. All training and response ammunition for the Eau Claire Police Department Officers shall be the responsibility of the Eau Claire Police Department. Any worker's compensation injury shall be the responsibility of the agency employing the injured officer.
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9. The Eau Claire Police Department officers shall maintain their physical fitness to such a degree as to be able to perform their duties as a SWAT Team member.
10. The Eau Claire Police Department officers while working as an Eau Claire County Sheriff's Office SWAT Team member shall be allowed to use all weapons, equipment, and vehicles issued by the Eau Claire Police Department and by the Eau Claire County Sheriff's Office.
11. The Eau Claire Police Department is responsible for providing all tactical equipment as dictated by the SWAT Team Commander or his designee. This will include, but be not limited to, tactical ballistic vests, ballistic plates, holsters, gas masks, uniform, helmets, pouches, weapon slings, radios, etc.
12. The Eau Claire Police Department officers may wear a grayscale Eau Claire Police Department SWAT patch with their uniform or elect to use the Eau Claire County patch.
13. During the selection process, the names of potential SWAT officers chosen by the Eau Claire Police Department command staff will be presented to the SWAT Team Commander for final review and acceptance before they may become a member of the team. The SWAT Commander, Eau Claire Chief of Police, or Eau Claire County Sheriff has the authority to remove officers from the SWAT Team at will.
14. This agreement does not provide any exceptions to the statutory obligations or requirements to a mutual aid request in the event the Eau Claire Police Department requests mutual aid for the Eau Claire County SWAT Team to respond to the City of Eau Claire.
15. The Eau Claire Police Department and the Eau Claire County Sheriff's Office agree to fully indemnify and hold each other harmless from and against all claims, actions, judgments, costs, and expenses, arising out of damages or injuries to third persons or their property, caused by the fault or negligence of the said party, its agents, or employees, in the performance of this MOU. The Eau Claire Police Department and the Eau Claire County Sheriff's Office shall give to each other prompt and reasonable notice of any such claims or actions and the other party shall have the right to investigate, compromise, and defend the same.

Notices:

Notices required or deemed advisable under this Agreement shall be placed in writing and delivered personally or by registered or certified mail upon the Eau Claire County Sheriff's Office to: Sheriff, 728 Second Avenue Eau Claire, WI 54703; and upon the Eau Claire Police Department to: Matthew Rokus, Chief of Police, 721 Oxford Ave. Suite 1400, Eau Claire, WI 54703.

All parties hereto having read and understood the entirety of this Agreement consisting of four (4) typewritten pages hereby affix their duly authorized signatures.



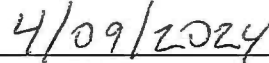
David Riewestahl, Sheriff
Eau Claire County Sheriff's Office



(Date)



Matthew Rokus, Chief of Police
Department



(Date)