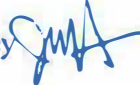




J. Hanley

WINNEBAGO COUNTY STATE'S ATTORNEY

DATE: May 30, 2024
TO: The People of Winnebago County
FROM: J. Hanley, State's Attorney 

**POLICE INVOLVED SHOOTING DECISION MEMORANDUM
INJURED PARTY: A.O. (a juvenile)**

I. Introduction

On March 16, 2024, at approximately 9:10 AM, South Beloit Police Detective Paul Reed conducted a traffic stop on a red Saturn at Illinois Route 251 southbound, north of Prairie Hill Road. It was discovered that the male front seat passenger, Ray Castro, had two felony warrants out for his arrest. Assisting officers arrived and Castro was asked to exit the vehicle. Castro exiting the Saturn and while officers attempted to arrest Castro, he resisted and a struggle ensued. The female driver, A.O., a juvenile, sped away from the scene. Detective Reed was inside the vehicle attempting to arrest Castro while the vehicle accelerated. While the Saturn was fleeing across IL 251, Detective Reed fired his service weapon, striking A.O. in the right leg. The vehicle went through the center median and through the northbound lanes of IL 251 before coming to rest in the ditch on the east side of IL 251.

The pursuit of Castro continued into Beloit, Wisconsin where Roscoe and Beloit Police Officers located the stolen vehicle Castro was driving and attempted to stop it. During the pursuit, a Roscoe police officer fired his weapon striking Castro. Castro was transported to a local hospital where he succumbed to his injuries.

The Winnebago-Boone County Integrity Task Force ("Task Force") conducted the investigation of the shooting of A.O. During the course of their investigation, investigators interviewed civilian witnesses and reviewed body worn and "dash" camera video footage, photographs of the scene, and police reports. The Task Force provided the Office of the Winnebago County State's Attorney its final report of investigation.

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 Detective Reed should be charged criminally for his actions that day.

As detailed below, I find that Detective Reed's use of force was justified as he acted reasonably and lawfully. Therefore, no criminal charges are warranted.

The Winnebago County State's Attorney will not be reviewing the officer involved death that occurred in Rock County, Wisconsin. That incident was investigated by Wisconsin's Department of Justice, Division of Criminal Investigation (DCI). The Rock County District Attorney reviewed DCI's investigation and determined that criminal charges were not warranted for any of the officers involved in the Rock County incident.

II. Review of Officer Involved Shootings

When an officer-involved shooting occurs in Winnebago County, the Task Force is called in to investigate. 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 officer 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.

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) 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, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, 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: (i) he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm

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).

to himself or such other person; or (ii) when he reasonably believes, based on the totality of the circumstances, both that: (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another; and (2) The person to be arrested 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.

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). See also 720 ILCS 5/7-5(f). 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, video footage, and witness interviews.

On Saturday, March 16, 2024, at approximately 9:10AM, South Beloit Detective Reed was patrolling South Beloit on Gardner Street near South Park Avenue. He observed a red Saturn Outlook and recognized the driver to be A.O. and also observed a male in the front passenger seat wearing a hooded sweatshirt with the hood pulled up over his head and a mask covering his face. Det. Reed had knowledge from prior investigations that Ray Castro was in a relationship with A.O. and that he had been known to wear a mask over his face while in public. Det. Reed was aware Ray Castro had outstanding arrest warrants for armed robbery.

Det. Reed checked the registration on the red Saturn which revealed it to be registered to Rosalia Vazquez at 236 Townline Ave. #101, South Beloit, IL. Det. Reed had prior contact with both A.O. and Ray Castro and knew them both to reside at 236 Townline Ave. in South Beloit.

Det. Reed observed a speeding violation on the red Saturn and initiated a traffic stop on IL 251 just north of Prairie Hill Road and advised South Beloit Police Officer Ramirez via radio of the location and that Ray Castro was the possible passenger in the vehicle.

The driver, A.O., provided her driver's license to Det. Reed. The passenger verbally identified himself as Jose Sanchez with a date of birth of January 4, 2005. The passenger told Det. Reed that he did not have an ID. The passenger's face and head remained covered by the hood and mask making only his eyes visible. Det. Reed observed a tattoo on the passenger's left hand.

Ofc. Ramirez arrived at the scene and he remained with the occupants while Det. Reed used law enforcement databases inside his squad to assist with identifying the passenger. Sgt. Newell also arrived and told Det. Reed that Ray Castro's date of birth is January 4, 2005.

Det. Reed and Sgt. Newell approached the red Saturn and met with Ofc. Ramirez in an effort to confirm the passenger's identity. Det. Reed repeatedly asked the passenger to exit the vehicle, however, he continually refused. When A.O. spoke to the passenger, she referred to him several times as "Jose."

Det. Reed continued asking the passenger to exit the vehicle and he eventually did. Det. Reed pulled down the passenger's hood and face mask, exposing his face and head. Det. Reed recognized the passenger to be Ray Castro and he instructed Castro to place his hands behind his back. Det. Reed intended to arrest Castro based upon his outstanding warrants. Castro said, "OK", but he began pulling away from Det. Reed. Ofc. Ramirez and Det. Reed attempted to gain control of Castro.

Det. Reed and Ofc. Ramirez continued to struggle with Castro as Castro is yelling at A.O. in Spanish. Ofc. Ramirez, who speaks Spanish yells, "Don't do it," multiple times while the struggle continues.

As Det. Reed and Ofc. Ramirez were attempting to gain control of Castro; Det. Reed is almost completely inside the Saturn with Castro on top of him. Castro is yelling "Gas" at A.O. as the vehicle accelerates. When the vehicle accelerates, it causes Ofc. Ramirez to be knocked to the ground.

The vehicle stopped abruptly on the right shoulder. Sgt. Newell approached the open passenger door and yells to A.O. to turn the vehicle off. The engine revs and drives away a second time with Det. Reed and Castro inside. Det. Reed was lying on his left side across the front passenger seat. He was unable to see out the vehicle and only had free movement of his right hand due to being positioned on his left side and with Castro on top of him.

At approximately 9:22 AM, Det. Reed discharged his firearm once, striking A.O. in the right leg while the Saturn crossed all southbound lanes of IL 251, the center median, all northbound lanes of IL 251 before coming to rest in the ditch.

Castro exited the Saturn and fled on foot while Det. Reed and Ofc. Ramirez unsuccessfully deployed their tasers on Castro. Castro fled west and eventually entered Macktown Lounge, where he accosted an elderly male employee and took the keys to his vehicle.

Castro stole the elderly male's vehicle and fled to Beloit, Wisconsin where he was shot in a confrontation with police in Wisconsin. Castro was transported to Beloit Memorial Hospital where he later died.

A. Officer Statements

1. Detective Reed

Detective Reed described the incident as follows:

Eventually [Castro] took off his seatbelt and began to get out of the vehicle. I took his cell phone out of his right hand and placed it on the dashboard of the Saturn. The passenger then stepped out of the vehicle and I pulled down his hood and face mask. At that time, I recognized the subject to be Ray Castro. I instructed Ray to place his hands behind his back and grabbed his right wrist. Ray said "ok" but began pulling his hand away from me while attempting to walk to his right, out of the doorway of the vehicle. Officer Ramirez and I struggled with Ray for a moment and I attempted to push Ray further into the corner of the doorway to prevent him from escaping. I also told Sergeant Newell to have Dispatch send us more units.

As Officer Ramirez and I continued to struggle with Ray, I heard Ray began yelling at [A.O.] in Spanish. I could not understand what Ray said but heard Officer Ramirez yell "don't do it." I could see [A.O.] look down at the Saturn's gear shifter and I reached into the car and shut off the ignition at that time believing that Ray was telling [A.O.] to drive off. Ray continued to yell at [A.O.] in Spanish. At this point Ray and I were fully in the vehicle on the front passenger seat. I was laying almost completely on my left side with Ray on top of me and my feet partially outside the vehicle. I could not see out the front of the vehicle. I continued to struggle with Ray who had now reached up and started the vehicle again then placed the gear shifter into drive while continuing to yell at [A.O.]. I felt the vehicle move and again shut off the vehicle but could not remove the key due to the shifter being in drive. Ray and [A.O.] now both began attempting to start the vehicle and I was attempting to stop them. Eventually, the engine started again and [A.O.] began to drive away.

I was still unable to see out of the vehicle and only had free movement of my right hand due to my body position and the fact that Ray was still on top of me. Due to Hwy 251 being a busy four lane highway with vehicles routinely traveling at a high rate of speed I knew that we were in great danger of being in a serious collision. I was eventually able to retrieve my department issued handgun from my holster with my right hand. I pointed my firearm at [A.O.] right leg and fired one shot which struck her in the thigh. Immediately upon doing this I felt the vehicle begin to slow down. I could feel the vehicle drive down through the center median, back up onto the road, and then into the ditch before coming to a stop. I placed the gear shifter into park and shut off the vehicle. I then pulled Ray out of

the vehicle through the still open passenger side door and ordered him to get on the ground. Ray was able to free himself from my grip and began to get up and run. I then observed Officer Ramirez attempting to hold onto Ray however, Ray was able to free himself from Officer Ramirez's grip as well and began to run east. I saw and heard Officer Ramirez discharge his taser as I was getting to my feet. I began to run after Ray and also discharged my taser however, none of the taser deployments were effective and Ray continued to run. By this time, I had become tangled in wires from the taser and was receiving intermittent shocks to my arms and legs. Because of this, and the fact that [A.O.] was still in the driver's seat of the Saturn, I stopped pursuing Ray and returned to the Saturn.

2. Officer Ramirez

Officer Ramirez described the incident as follows:

Officer Reed approached the passenger side and asked the passenger to step out multiple times. I told the passenger to step out multiple times as well. He continued to look at [A.O.] and tell her to calm down. Officer Reed continued to tell the passenger to step out. I noticed [A.O.] to be on her phone and speaking with a female. She would call the female "mom" multiple times.

[After Castro exited the vehicle], I saw the suspect reach for his pants with his left hand. I told him to stop, and I immediately grabbed his left arm. He would turn and get back in the passenger seat of the vehicle. Officer Reed appeared to hold on to his back. I attempted to grab his left arm and told him to stop. I could hear the suspect yell at [A.O.] to step on it, in Spanish. I noticed the suspect grab the shifter and attempt to grab the keys of the ignition. I could hear [A.O.] screaming and the suspect telling to [A.O.] to drive off. I was partially inside the passenger side of the vehicle. I grabbed the top of the suspect's head and attempted to move it toward me. I lost grip and leaned forward towards the gear lever. At one point the car spun its tires and caused me to fall backwards. I landed on my left shoulder. The impact caused my department issued guardian light to fall off.

I saw the vehicle slowly rolling across the median into the northbound lane. I noticed a red truck pull over the shoulder of HWY 251 to avoid hitting the slow-rolling vehicle. The vehicle made a complete stop in the grass in between HWY 251 and Dearborn Ave.

I walked to the vehicle and assisted Officer Reed. I could hear [A.O.] screaming. I walked around the vehicle and saw [A.O.] bleeding from her right leg. I noticed what appeared to be a small hole on her right thigh. I attempted to apply the tourniquet on [A.O.'s] leg. [A.O.] was still on the phone with her mother. She mentioned Ray's name during her conversation. Officer Reed requested medical and Harlem & Roscoe Medical arrived on scene and provided her medical attention. I rode with Harlem & Roscoe EMT to Javon Bay Hospital. [A.O.] was released to the medical staff.

3. Sergeant Newell

Sergeant Newell described the Saturn fleeing across IL 251 as follows:

The vehicle stopped about 10 yards south of the original spot and I heard the engine shut off. I ran up to the vehicle and as I approached, I heard the engine start back up and was not revving. I yelled inside the vehicle for the female to "shut if off." [A.O.] then accelerated and the vehicle took off again. As it crossed the right southbound lane, I heard the gunshot and the vehicle continued into the center median and across the northbound lanes and came to a rest in the ditch east of Rt. 251, between the frontage road and the highway.

B. Witness Statements

A.O.'s mother, Rosalia Vazquez was interviewed at the hospital after the incident. She said she was on the phone with A.O. for portions of the traffic stop. She said the police were asking Ray to get out of the car but he was refusing. Rosalia said she told Ray and [A.O.] to get out of the car multiple times. Rosalia pleaded with Ray to get out of the car and comply with the police. Rosalia said the sounds of yelling escalated and Rosalia said she heard one gunshot. [A.O.] also told Rosalia that she'd been shot.

C. Forensic Evidence

During a search of the maroon SUV, investigators found one Win 9MM Luger casing in between the front driver's seat and center counsel. Further, one projectile was found on the front driver's floorboard. Based upon the forensic evidence, Det. Reed fired his gun once, striking A.O. in the right thigh.

D. Video Evidence

The most relevant video evidence of the incident is the body worn and squad camera footage of Officer Ramirez and Sgt. Newell. Det. Reed's body warn camera is obstructed or inoperable at crucial times because of his struggle with Castro in the Saturn. For example, it is clear from the context and video that Castro's body is pressed against Det. Reed's body warn camera. Nevertheless, the video evidence obtained from Ofc. Ramirez and Sgt. Newell's body warn cameras is consistent with the statements of the involved officers, including Det. Reed.

E. A.O.'s Injury

A bullet fired from Detective Reed's firearm struck A.O. in the right thigh. A.O. was treated at a local hospital and released.

V. Application of the Facts to the Legal Standard

A criminal prosecution for aggravated battery with a firearm or a similar charge would require proof beyond a reasonable doubt that Detective Reed was not legally justified in using deadly force against A.O. In other words, a judge or jury would need to conclude that Detective Reed did not reasonably believe that he or others were in imminent danger of death or great bodily harm from the actions of A.O. and Ray Castro.

Ray Castro resisted Det. Reed's attempt to identify and eventually arrest him. In doing so, Castro caused Det. Reed to be pinned under Castro in the front passenger of the Saturn. Det. Reed's stated:

At this point Ray and I were fully in the vehicle on the front passenger seat. I was laying almost completely on my left side with Ray on top of me and my feet partially outside the vehicle. I could not see out the front of the vehicle. I continued to struggle with Ray who had now reached up and started the vehicle again then placed the gear shifter into drive while continuing to yell at [A.O.]. I felt the vehicle move and again shut off the vehicle but could not remove the key due to the shifter being in drive. Ray and [A.O.] now both began attempting to start the vehicle and I was attempting to stop them. Eventually, the engine started again and [A.O.] began to drive away.

I was still unable to see out of the vehicle and only had free movement of my right hand due to my body position and the fact that Ray was still on top of me. Due to Hwy 251 being a busy four lane highway with vehicles routinely traveling at a high rate of speed I knew that we were in great danger of being in a serious collision. I was eventually able to retrieve my department issued handgun from my holster with my right hand. I pointed my firearm at [A.O.] right leg and fired one shot which struck her in the thigh.

Det. Reed's statements are corroborated by the available video evidence, the statements of the other responding officers, namely Ofc. Ramirez and Sgt. Newell, and of A.O.'s mother.

Based upon the totality of the circumstances, Detective Reed's belief that shooting A.O. while he was pinned in the front seat by Ray Castro and while A.O. was driving the vehicle across a busy road was necessary to protect himself from death or great bodily harm was reasonable. Certainly, A.O. driving a vehicle recklessly across a median and into oncoming traffic while Det. Reed is pinned against the front seat under Castro posed an imminent threat of death or great bodily harm to Officer Reed.

An officer may respond to the imminent threat of death or great bodily harm to himself or others with equal force – in this case, by firing his gun.

VI. Conclusion

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