

February 29, 2024

Chief Patrick Mitchell
West Allis Police Department
11301 West Lincoln Avenue
West Allis, WI 53227

Dear Chief Mitchell:

I reviewed the investigative reports related to the incident that occurred on September 28th, 2023 at 1440 South 71st in the City of West Allis. City of West Allis Police Officers Ryan Stuetgen, Sergio Santa-Cruz Medina, Conner IaQuinta, Kyle Brockmann and Anthony Hayner confronted Justin Gonzales and discharged first non-lethal then lethal rounds at him with their service weapons when he charged at them armed with two knives. My review concludes that the Officers were confronting a life threatening situation when they discharged their weapons and that they made reasonable attempts to use non-lethal force to gain compliance before using deadly force.

Investigative Synopsis – Officer-Involved Death of Justin R. Gonzales (M/W 3-20-87)

On September 28, 2023, the Milwaukee Area Investigative Team (MAIT) was activated to investigate an officer-involved shooting death at 1440 S. 71 St. in the City of West Allis, County of Milwaukee, State of Wisconsin, pursuant to Wisconsin State Statute §175.47. The request was made by the West Allis Police Department (WAPD). The decedent was identified as Justin R. Gonzales (M/W, 3-20-87). The Wauwatosa Police Department was designated as the lead agency for the investigation. The following agencies assisted with the investigation: Milwaukee County Sheriff's Office, Milwaukee Police Department, Franklin Police Department, City of Brookfield Police Department, South Milwaukee Police Department, Waukesha Police Department, Hales Corners Police Department, West Milwaukee Police Department, Greenfield Police Department, Glendale Police Department, Saint Francis Police Department, Oak Creek Police Department, Wisconsin State Crime Lab, Wisconsin State Patrol, US Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Milwaukee County Medical Examiner's Office. The Milwaukee County District Attorney's Office responded to the scene for oversight.

On September 28th, 2023, West Allis Police Officers Sergio Santa-Cruz Medina, Connor IaQuinta, Ryan Stuetgen, Kyle Brockmann, and Anthony Hayner all responded to 1440 S. 71 St. in reference to a temporary restraining order (TRO) violation. The caller, Cristina J. Gonzales (F/W, 12-15-86) was the petitioner of the TRO. Cristina stated that her husband, Justin R. Gonzales (M/W, 3-20-87), was ringing her doorbell and stated he was going to commit suicide. Justin was the respondent of the temporary restraining order. Prior to officer's arrival, Justin entered the house through a window and was armed with two knives. Cristina advised police dispatch that Justin wanted to say good bye to his kids and was going to charge at the police with the knives. Upon arrival, officers approached the front of the residence where they encountered Justin on the front porch. Justin was armed with two knives. Officers gave commands for Justin to drop the knives. Justin did not drop the knives and instead began to raise his arms with the knives still in his hands. Officer Stuetgen

deployed a less lethal shotgun and fired one shot from it striking Justin. Justin then ran back into the residence while holding both knives. Officers approached the front door, which was shut, while they could hear screaming coming from inside. As officers were about to enter the residence, Justin opened the front door while still armed with both knives. Officers again gave commands for Justin to drop the knives. Justin continued to hold the knives in front of him. Officer Stuetngen fired another shot from the less lethal shotgun while Officer IaQuinta fired two shots from his rifle at Justin. Justin remained armed with the knives and then charged toward the officers with the knives in front of him. Officers fired at Justin as he charged at them. Officer Santa-Cruz Medina, IaQuinta, Brockmann, and Hayner fired at Justin and struck him numerous times. Justin fell on the front porch where the officers were just standing prior to Justin charging toward them. Officers removed one of the knives from Justin's hand and began to render aid. The West Allis Fire Department responded but found Justin was deceased from his injuries. All five officers provided statements to MAIT investigators and cooperated with this investigation.

Officer Stuetngen's Statement:

I am including all of Officer Stuetngen's post-incident statement as an exemplar of the statements provided by all the officers. The other statements from the involved officers are consistent, but Officer Stuetngen's statement, when paired with body camera provides a comprehensive assessment of the circumstances confronting the officers that day. Officer Stuetngen said that he has been a police officer with the West Allis Police Department for approximately 10 years. Prior to that time, Officer Stuetngen was a police officer for the City of Watertown Police Department for approximately 7 years. He attended the police academy at Milwaukee Area Technical College in Oak Creek in 2004 and was out of the academy for about 8-10 months before being hired by the Watertown Police Department. Prior to the academy, Officer Stuetngen attended and graduated from the University of Wisconsin – Oshkosh with a bachelor's degree in criminal justice. He has had no other law enforcement or related jobs. Officer Stuetngen has been a Field Training Officer since 2010.

After assembly, Officer Stuetngen went to prepare Squad #63 for the shift. His assigned squad number was 320 for the shift (which is a number indicative of a sergeant). In preparing the squad, Officer Stuetngen made sure everything was in working order. Included in the squad's equipment, in a locked vault inside the back tailgate, were a less lethal shotgun with a zippered bag containing less lethal beanbag rounds and a 40 millimeter launcher with rubber impact rounds. Also in the squad, in a locked holder was a patrol rifle with magazine and a "go-bag" that contains to additional magazines. Each of the magazines contains 28 rounds of 5.56 ammunition.

Between 11:30 PM on 09-27-2023 and 12:00 AM on 09-28-2023, Officer Stuetngen heard officers dispatched to 1440 S. 71 St., which would be the location of the officer involved death later in the shift, for a report of a violation of a temporary restraining order. Officer Sandvick responded to the address and determined that the suspect was Justin R. Gonzales (M/W 03/20/1987), that he had fled the address prior to police arrival and that probable cause existed to arrest him for violation of the temporary restraining order.

Officer Stuetngen said that he was familiar with Gonzales based on a prior interaction with him at his listed address of 9433 W. Greenfield Avenue in West Allis. Officer Stuetngen believes that call was within the past few weeks in September. During that call, officers found that Gonzales and one of

his roommates had been intoxicated and got into a verbal altercation. Both Gonzales and his roommate were cooperative with police during that interaction and no one was arrested. Officer Stuetngen said he had no recollection of ever having been to a call for service at 1440 S. 71 St.

During the call regarding the violation of temporary restraining order, Officer Stuetngen went with Officers Iaquina and Lamm to 9433 W. Greenfield Ave. in an attempt to locate Gonzales and take him into custody. Contact was made with Gonzales' roommates, who were cooperative with police. They told police that Gonzales was not there and they allowed police to search the residence for him. Once police were sure Gonzales was not at the residence, Officer Iaquina left one of his business cards with Gonzales' roommates and asked them to call police if Gonzales were to return home. Police then left.

At about 6:40 AM, while in the West Allis Police Station Report Room, dispatch sent officers to 1440 S. 71 St. for a report that Justin Gonzales had returned to the residence and was inside. Officers Stuetngen, Iaquina, Hayner, Brockmann, Santa Cruz Medina and Luedke all began responding from the station. Officer Stuetngen recalled that while he was in route to 1440 S. 71 St., dispatch advised officers that Gonzales had armed himself with knives according to the caller and he was saying that he would charge at officers when they arrived. Officer Stuetngen responded with his squad's emergency red and blue lights and siren activated. His route was: east on Lincoln Avenue from the West Allis Police Station, east on National Avenue, north on 71 Street. Officer Stuetngen stopped just north of National Ave. on 71 St. and realized he was too far south, so he moved farther north and parked his squad just south of Orchard Street. All of the other officers arrived at the same time.

There was a discussion between officers about the correct address for the call, which officers confirmed with dispatch to be 1440 S. 71 St. As he responded and once parked on 71 St., Officer Stuetngen was thinking that this was a call related to an armed subject and also about officer assignments at the call and which equipment was needed.

Officer Medina got a ballistic shield from the back of the vehicle. Officer Stuetngen retrieved the less lethal shotgun, which is identifiable by its orange color. He also removed 5 less lethal beanbag rounds from the zippered pouch, inspected them to ensure they were, in fact, less lethal and not lethal shotgun rounds. Officer Stuetngen loaded the 5 rounds into the less lethal shotgun. Officers Stuetngen and Santa Cruz Medina then began walking north on the east side of S. 71 St. Near W. Orchard St., they were met by other officers, who were carrying rifles. Officer Stuetngen is not sure who those officers were. There was no discussion by officers as to who would fill what role in approaching the address to which they had been dispatched. Officer Stuetngen said they had a shield for protection from edged weapons. He brought the less lethal shotgun so that officers would have an alternate means to use non-lethal force from a distance since it was reported that Gonzales had knives. He believes that Officers Hayner, Iaquina and Brockmann approached the residence with him and Officer Santa Cruz Medina. He believes that there were at least 2 officers equipped with rifles. Officer Santa Cruz Medina led the way with the shield, with the other officers following behind him. Officer Stuetngen was in the rear, taking up a supervisor overwatch position and because he had a less lethal option and Gonzales was reportedly armed with lethal weapons. Officers identified the house as they approached, walking north from south of 1440 S. 71 St.

When they were at about the south property line for 1440 S. 71 St., the front door of the residence opened. A male subject appeared. The male was holding what appeared to be a butcher knife in his right hand and what appeared to be a steak knife in his left hand. He was Hispanic and was wearing a dark t-shirt. He was holding the knives up with the blades above the handles in a vertical position. Several officers yelled "Drop the knife!" at the subject, who Officer Stuetgen recognized as Justin Gonzales. Officer Stuetgen believed that Officer Iaquina said he should deploy less lethal, but Officer Stuetgen could not acquire a target location on Gonzales due to the slats on the porch. Officer Stuetgen recalled that Gonzales walked off the top of the porch, toward the middle step.

Gonzales turned and "squared" his body toward officers with the knives still in his hands. He was about 20 feet from officers and not complying with police orders to drop the knives. Due to his continued resistance by not complying, Officer Stuetgen stepped up and deployed one less lethal beanbag round at Gonzales. Officer Stuetgen's aim point was Gonzales' right thigh, which is where it appears the round impacted Gonzales. Gonzales reacted stunned, but stayed on his feet and did not drop the knives. He seemed to recover and then turned and ran back into the house, closing the door behind him.

Officer Stuetgen feared that Gonzales went into the house to hurt or kill the family that had been reported to be inside, that he knew included at least 2 women and several children. Because of this, Officer Stuetgen said, "Go! Go! Go!" to the other officers and they quickly moved onto the porch, knowing that they needed to intervene by entering the house to prevent Gonzales from hurting or killing the people inside.

When the officers got to the top step of the porch, the front door opened. Officer Stuetgen assumed Gonzales had opened the door. Gonzales was standing just inside the door, with a knife still in each hand, both vertical with the blades up. He was within 10 feet of officers. Officer Stuetgen deployed another less lethal beanbag round at Gonzales while officers were continually yelling, "Drop the knife!" Officer Stuetgen's point of aim was Gonzales' thigh, but he does not know whether the beanbag round impacted Gonzales. There was no reaction from Gonzales and he was facing the porch. Officer Stuetgen said he delivered the beanbag round because it was an alternative to lethal force. He described Gonzales as an "imminent threat", fearing that he would charge at and stab officers.

Gonzales turned toward officers and crossed the threshold quickly from the house, onto the porch. Officer Stuetgen and officers were in close proximity to Gonzales. Officer Stuetgen thought Gonzales was going to stab and kill officers as he still had both knives in his hands as he started to charge at officers. Officer Stuetgen thought Gonzales was lunging at officers because it was his intent to kill police officers. Because he couldn't transition to his handgun quickly enough, Officer Stuetgen moved behind Officer Santa Cruz Medina. He could no longer see Gonzales. Several shots were fired by the other officers, but Officer Stuetgen is not sure which officers fired their weapons. Officers moved up to where Gonzales fell face down on the front porch. When officers moved up to Gonzales, Officer Stuetgen could see that a knife was still in his left hand. Officer Stuetgen stepped on Gonzales' left hand to prevent Gonzales from using the knife. His hand was limp. Officer Stuetgen kicked the knife away in order to render aid to Gonzales and the knife went northwest from Gonzales on the porch. Gonzales' right hand was underneath him, so Officer Stuetgen could not see if anything was in his right hand. Officer

Stuettgen tried to grab onto Gonzales' left hand in order to roll him over. He could not, so Officer Stuettgen grabbed onto Gonzales' belt, rolled him enough to get his right hand out from under him and observed significant trauma to Gonzales' right arm.

Officer Stuettgen removed a tourniquet from his right cargo pants pocket and secured the tourniquet on Gonzales' right upper arm. The tourniquet was his department issued CAT brand tourniquet. Officer Hayner came to assist Officer Stuettgen as he had been trained as a combat medic. Hayner cut Gonzales' shirt off to assess him and he pointed to wounds on Gonzales' back. Officer Stuettgen saw holes on the back of Gonzales' head, his back and chest and he believed Gonzales to be deceased.

While Officers Stuettgen and Hayner were assessing and attempting to provide medical care to Gonzales, the other officers went into the house to clear the residence. Day shift officers began to arrive and took over for the involved officers in securing the residence.

While they were on the porch, Officer Stuettgen confirmed that Officer Hayner had fired at Gonzales. Upon hearing that Officer Hayner had fired, Officer Stuettgen called a day shift officer over and asked that officer (he did not remember specifically which officer) to escort Officer Hayner off the porch and to stay with him. Officer Stuettgen remained on the porch with Gonzales.

A short time later, West Allis Fire Department personnel arrived. He remembered there being 6 fire department personnel, so he told them to just bring 2 onto the porch as it was a crime scene. The 2 paramedics hooked Gonzales up to a machine, determined that he was deceased and did not render any aid. Officer Agor took Officer Stuettgen's place on the porch. Officer Stuettgen moved to the sidewalk and stood there to assist in maintaining scene security. Corporal Kaye arrived and took photos of Officer Stuettgen's hands as they were covered in Gonzales' blood and he wanted to wash them. After his hands were photographed, Officer Stuettgen did wash them. Corporal Kaye stayed with Officer Stuettgen and they stayed on scene in Corporal Kaye's vehicle for a while.

Sergeant Corwin asked Officer Stuettgen his public safety statement. Corporal Kaye collected the rifles from the involved officers as well as Officer Stuettgen's less lethal shotgun. Corporal Kaye maintained possession of them in his vehicle, eventually transporting them and Officer Stuettgen to the West Allis Police Station.

Once they were at the West Allis Police Station, detectives from the Wauwatosa Police Department took involved officer photographs and conducted round counts.

Body Camera Review:

I reviewed at length all the footage of the involved officers' body cameras. All the body cameras with the exception of Officer Santa Cruz-Medina (the ballistic shield obscures his camera throughout the major portion of the encounter) depict the initial encounter, the deployment of less than lethal rounds and the subsequent discharge of lethal rounds when Mr. Gonzales charges at the officers while armed with two knives. The video footage confirms the close range of the

encounter and the deliberate intent Mr. Gonzales demonstrated when he charged the officers. Use of force in this circumstance is consistent with Wisconsin Law Enforcement Training Standards as well as the West Allis Police Department's use of force policy. The body cameras also show the officers rendering aid initially until it was apparent that further treatment was futile.

Legal Analysis:

Under Wisconsin law, §939.48 (1) Stats, a person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

This is a two-part test, with subjective and objective components.

- 1) Did the officer have an actual subjective belief that deadly force was necessary to prevent imminent death or great bodily harm to himself or others?
- 2) Was that belief objectively reasonable?

See *State v. Head*, 2002 WI 99, 255 Wis. 2d 194, 648 N.W.2d 413

In addition, City of West Allis Police follow the national standard that trains officers only to use force to stop a threat of death or great bodily harm. Police are trained using the Wisconsin Defensive Arrest and Tactics Manual, which offers guidance on assessing the threat level of a situation and the use of force.

The facts of this case demonstrate that the uses of force by Police Officers Ryan Stuetgen, Sergio Santa-Cruz Medina, Conner IaQuinta, Kyle Brockmann and Anthony Hayner meets both of the *State v. Head* criteria. Mr. Gonzales was armed with two knives that he refused to relinquish after being lawfully ordered to do so and instead charged the officers at short range even after being struck with a less lethal round to gain compliance. The officers were on scene lawfully attempting to arrest him because he was in violation of a restraining order and he posed a potential threat of death or harm to the family inside the residence.

Conclusion:

Because the uses of force by West Allis Police Officers Ryan Stuetgen, Sergio Santa-Cruz Medina, Conner IaQuinta, Kyle Brockmann and Anthony Hayner were legally privileged, I am closing the criminal investigation into this incident and leave to your discretion any administrative decisions. All materials pertinent to my investigation are available for inspection.

Respectfully,

A handwritten signature in blue ink, appearing to read "John T. Chisholm". The signature is fluid and cursive, with the first name "John" and last name "Chisholm" clearly distinguishable.

John T. Chisholm
Milwaukee County District Attorney

Cc: Attorney Sean Lees, MacGillis Wiemer LLC
City of Wauwatosa Police Chief James MacGillis