



OFFICE OF DISTRICT ATTORNEY

Gary King | District Attorney

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May 2, 2017

PRESS RELEASE – OFFICER INVOLVED SHOOTING JANUARY 28, 2017

On January 28, 2017, an officer-involved shooting took place in the City of Eau Claire. The incident involved City of Eau Claire Police Officer Kristopher O'Neill. Officer O'Neill responded to the Scottish Inn and Suites located at 1135 West MacArthur Avenue in the City of Eau Claire after receiving a dispatch report of a man who had a gun at that location and was waving the gun at people and vehicles in the area. Upon arrival, Officer O'Neill immediately recognized a possible suspect given the description provided by dispatch. Officer O'Neill observed that the individual, later identified as Matthew Zank, was holding a weapon. Officer O'Neill exited his squad car with a service rifle. Officer O'Neill gave no fewer than seven commands to Zank to drop the weapon. While Officer O'Neill gave these repeated commands, Zank not only did not drop the weapon, but continued to walk toward Officer O'Neill while pointing the weapon at Officer O'Neill and verbalizing to Officer O'Neill that he would not drop the weapon. As Matthew Zank continued walking toward Officer O'Neill still brandishing the weapon and ignoring the verbal commands to drop the weapon, Officer O'Neill fired four shots. Matthew Zank fell to the ground as a result of the shots. Officer O'Neill notified dispatch multiple times that shots were fired. Officer O'Neill approached Matthew Zank and kicked the weapon that was near Zank away from him. Other officers arrived and began performing life-saving efforts on Matthew Zank until EMS staff arrived and took over. Zank was ultimately pronounced dead at the scene. As part of the investigation, the contents of Zank's wallet were reviewed. Among the contents in Zank's wallet was a folded up note that read, "To the cop that shoot me I am sorry that I made you do it do not feel bad my life was worthless."

As a result of the incident on January 28, 2017, and pursuant to the laws of the State of Wisconsin, a comprehensive investigation was performed by an outside law enforcement agency – the City of La Crosse Police Department. The lead investigator was Captain Shawn Kudron. The investigation included scene documentation, video collection, witness interviews, ballistics testing, an autopsy of Matthew Zank, photographs, scene mapping, records review, and miscellaneous other information including, but not limited to, the origin of the weapon that Matthew Zank possessed at the time of the incident.

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Matthew Zank Status January 28, 2017

On January 28, 2017, Matthew Zank was residing at the Scottish Inn and Suites. He checked in on January 19, 2017 and stayed for the next nine nights for a total lodging cost of \$510.21. While staying at the Scottish Inn and Suites, Matthew Zank attempted to obtain housing through Hope Gospel Mission. A housing application was submitted on January 20, 2017. On January 24, 2017, Matthew Zank met with Hope Gospel Mission staff regarding potential housing. During this interview, Zank referenced a prior suicide attempt at the Clark County Jail at the end of December, 2016. On January 25, 2017, Matthew Zank learned that his housing application at Hope Gospel Mission was denied.

Matthew Zank had many interactions with the Eau Claire County Department of Human Services in January of 2017. A review of those records indicates that on January 13, 2017, Northwest Connections completed a Mobile Crisis assessment on Matthew Zank. During this assessment, Zank stated he wanted someone to find a house for him and that if he were homeless, he would kill himself. The same assessment found that Zank was not accepted to a behavioral health unit due to his "risk agitation level" towards staff. It was noted that Zank had threatened to kill a nurse. Zank had also stated that he would kill himself if he was discharged from the hospital. In the response plan portion of the assessment, it indicated that Matthew Zank presented with mental illness, was a danger to himself, and that he continued to state he would kill himself. On January 13, 2017, a Chapter 51 Emergency Detention form was completed for Zank.

A progress note dated January 18, 2017 indicates that Matthew Zank was being recommended for dismissal from Winnebago Mental Health Institution and that he had concerns of homelessness. The progress note also indicated that Zank "told us flat out he claims suicidal ideation when he has nowhere to go."

A progress note dated January 27, 2017 references the Hope Gospel Mission application and notes the concerns of staff regarding Zank. The note also references a sibling of Zank coming to the Department of Human Services and expressing concerns over Zank wanting to stay at the sibling's residence. The progress note indicates the sibling is afraid of Zank and does not want him at the residence. The progress note indicates that contact was made with Zank on January 25, 2017. During the call, Zank referenced that he did not meet the requirements for Hope Gospel, that he was still at the motel and that it was not possible for Zank to stay with his sibling. The note also indicates that Zank stated, "I am just better off dead."

Matthew Zank was charged in Clark County Case No. 16CM232 with *Battery and Disorderly Conduct* regarding an incident that took place on December 27, 2016. The incident took place at a medical rehabilitation center where Zank had been staying since approximately September of 2016. Zank was found unresponsive in his jail cell in the early morning hours of December

28, 2016. Zank was transported to Sacred Heart Hospital in Eau Claire on December 28, 2016. Zank was discharged from Sacred Heart Hospital to Winnebago Mental Health Institute on January 15, 2017. Records indicate that Zank was taking as many as 16 different medications. Zank made multiple statements regarding self-harm while at Sacred Heart Hospital. A review of records further indicates that Zank was previously diagnosed with schizoaffective disorder, as well as a history of alcohol abuse.

911 Call Information

A review of the 911 transcript from January 28, 2017 shows that the 911 Center received a call at 07:16:22. The caller, later identified as Matthew Zank, states "Yes there's a man with a gun." When asked where this is taking place, Zank responds "[a]t the hotel 111135 West MacArthur Avenue. Across from the gas station. He's pointing it at vehicles and at, and at, and at people. What are you going to do about it?" Zank then relates that he is inside of the hotel and sees this from the window. When asked what the individual is wearing, Zank says "blue pants and a and a light tan jacket." Zank confirms that the man is pointing the gun at people and cars and that he is across from the Kwik Trip. Zank then provides his first and last name to the 911 operator and states he is in Room 202. Zank again explains to the 911 operator that the guy "is aiming the gun at vehicles and at cars. What are you going to do about it?" After additional discussion, Zank states repeatedly "I have to go" and eventually hangs up on the 911 call. The 911 call ends at 07:22:15.

The Communication Center log reflects the following information starting at 7:18:07: (long single tone) I have a report of a man with a gun. The Scottish Inn. 1135 West MacArthur. 1135 West MacArthur report of a man with a gun, pointing a gun at people and cars. Described as a male white wearing blue pants and a tan jacket.

Kwik Trip Video

As part of the investigation, video footage was obtained from Kwik Trip located at 1130 West MacArthur Avenue. One camera shows Matthew Zank walking east across the upper balcony, near his room #202 at 07:22. Zank is observed walking towards the stairs on the east side of the Scottish Inn. He appears to be wearing a tan/brown jacket and dark colored pants.

Another camera at the Kwik Trip shows the squad car of Officer O'Neill arriving in the area of 1135 West MacArthur Avenue with his red and blue lights on at 07:22:21. Officer O'Neill pulls into the parking lot of the Scottish Inn at 07:22:30. At 07:22:31, Matthew Zank is observed walking from the east side of the Scottish Inn towards Officer O'Neill. At 07:22:45, Zank has stopped walking and is standing still. At 07:22:50, Zank starts walking toward Officer O'Neill and the squad car. At 07:22:51, Zank is no longer walking towards Officer O'Neill and cannot be seen.

A third camera from Kwik Trip also captured relevant footage. At 07:22:54, the footage shows Matthew Zank lying on his back, with his arm up in the air in a pointing manner, slowly falling towards the ground at 07:22:56.

Squad Video Review

The squad video of Officer O'Neill was reviewed as part of the investigation. The squad video confirms a long single tone heard over the radio referencing a man with a gun at 1135 West MacArthur Avenue. While the squad video does not display Officer O'Neill or the suspect at the time shots were fired, the squad video does capture the verbal commands provided by Officer O'Neill. When Officer O'Neill exits the squad car, the first thing he said was "Drop the gun!" After this command, Officer O'Neill is heard giving the following six commands before shots are fired: "Drop the gun, drop the gun, put it down, put the gun down, drop it, drop the gun!" After the shots were fired, Officer O'Neill provides multiple radio transmissions to dispatch of "Shots fired!" Officer O'Neill also requests an ambulance.

Officer Kristopher O'Neill Interviews

As part of the investigation, Captain Kudron had contact with Officer O'Neill on January 28, 2017. This contact included returning to the scene to conduct an initial walk-through of the scene. During this walk-through, Officer O'Neill explained that when he approached the Scottish Inn, he did not see anyone at the front of the building and knew there was a second driveway entrance on the east side of the building. Officer O'Neill proceeded to the second driveway entrance and immediately identified a possible suspect. The suspect came from behind a white box truck near the building and started walking toward him. The suspect had his hands at his sides and had a black handgun in his right hand. Officer O'Neill responded by getting out of his squad car with his long gun. When Officer O'Neill stepped out of the vehicle, he placed himself by the driver's side door and re-observed the suspect. At this time, the suspect was pointing the handgun at him and was continuing to walk towards him.

Officer O'Neill pointed his long gun at the suspect and gave him several commands to "drop the gun" as the suspect continued to walk towards him. Officer O'Neill fired at the suspect until the suspect stopped. Officer O'Neill believed he fired three times. Upon firing the rounds, the suspect fell in a backward motion. When the suspect fell on his back, the gun fell from the suspect's hand, falling near his feet. Officer O'Neill used his portable radio and notified dispatch two different times that shots had been fired. Officer O'Neill then approached the suspect. When he approached the suspect's gun, Officer O'Neill kicked the suspect's gun away from the suspect and toward the squad car. Officer O'Neill covered the suspect until Sergeant Slaggie and Officer Zurbuchen arrived.

Officer O'Neill was again interviewed on January 31, 2017. Officer O'Neill advised that he has been a police officer with the Eau Claire Police Department for 19 years and was assigned to the Patrol Division on January 28, 2017. In addition to his work as a full-time police officer, Officer O'Neill also has been assigned to various specialty units, including the Crime Scene Unit and Tactical Unit. While assigned to the Tactical Unit, Officer O'Neill's assignments included those of sniper as well as perimeter duties. As to his current patrol work, Officer O'Neill is assigned to day shift patrol from the hours of 6:30 a.m. to 5:00 p.m. Officer O'Neill works a 4-day work rotation and January 28, 2017 was the fourth day of the current rotation. Officer O'Neill advised that on the evening of January 27, 2017, he slept approximately eight hours. Officer O'Neill did not consume any alcohol on January 27 or January 28, 2017.

On January 28, 2017, Officer O'Neill arrived at the Eau Claire Police Department at approximately 6:10 a.m., dressed in his full uniform, and participated in the briefing. Following briefing and a squad check, he called in service with dispatch, ready for service. While dispatched to a domestic matter, a single alert tone came across the radio. Officer O'Neill advised this single alert tone means the next radio transmission is important and usually pertains to a serious incident/call. Officer O'Neill stated dispatch gave information over the radio that there was a man with a gun, pointing the gun at people and cars in the area of 1135 West MacArthur Avenue. Officer O'Neill advised dispatch that he would be responding to the call and initiated his overhead emergency red and blue lights. Officer O'Neill advised he used to work the district where the Scottish Inn and Suites is located, so he had knowledge of this location.

Upon arrival, Officer O'Neill notified dispatch that he was on location. He did not see anyone at the front of the building and proceeded to a second driveway entrance east of the building. When he entered this second driveway, Officer O'Neill immediately recognized the possible suspect, as dispatch had described the suspect as a male wearing blue pants, a tan jacket, and that the male had a gun. The suspect came from behind a white box truck and started walking toward him with his hands at his sides and a black handgun in his right hand. Officer O'Neill stepped out of his squad car with his long gun. At this time, Officer O'Neill saw the suspect pointing a handgun at him while walking towards him. Officer O'Neill pointed his long gun at the suspect and gave the suspect several commands to "Drop the gun!" The suspect continued to walk towards him. On the last command for the suspect to drop the gun, the suspect verbalized back to him, "No I will not." Given this, and the fact that the suspect was still pointing the gun and walking toward him, Officer O'Neill believed the suspect was "intent on killing me." Officer O'Neill fired his long gun at the suspect and fired his weapon until the threat was stopped, believing he fired three times. After the rounds were fired, the suspect fell in a backward motion. Officer O'Neill notified dispatch twice that shots were fired. Officer O'Neill approached the suspect and kicked the gun away from the suspect and towards the squad car. Officer O'Neill covered the suspect until other officers arrived. The suspect did not say anything during this time. Sergeant Slaggie and Officer Zurbuchen arrived on scene. Officer O'Neill was removed from the scene while other officers attended to the suspect.

Officer O'Neill was asked if he thought he had any other options in dealing with the suspect. Officer O'Neill responded, "No, he was going to kill me or someone else. I couldn't let him walk away. He did not listen to commands, he did not lower his gun and he verbalized that he would not." When Officer O'Neill was advised of the suspect's identity, Officer O'Neill confirmed that he did not recognize or know Matthew Zank.

Other Officer Interviews

Sergeant Gary Axness was interviewed as part of the investigation. Sergeant Axness advised he was approximately two blocks away from the scene when he heard Officer O'Neill state that shots were fired. Sergeant Axness advised he pulled into the parking lot and subsequently observed the suspect bleeding from his mouth and chest. Sergeant Axness said he then returned to his squad car to obtain a clotting agent for the suspect's wound. Sergeant Axness said he also started chest compressions on the suspect and continued until EMS arrived and took over for him. Sergeant Axness confirmed that dispatch advised that the suspect was a white male, wearing a tan jacket, blue pants, and was holding a gun. Sergeant Axness confirmed this was the person he observed lying in the parking lot

Officer Jesse Zurbuchen was interviewed as part of the investigation. Officer Zurbuchen stated he responded to the scene at 1135 West MacArthur Avenue after a report of a man waving a gun around. Officer Zurbuchen said he entered the Scottish Inn at the driveway located on the west end. A very short time after advising he had arrived, Officer Zurbuchen heard what he believed were three gun shots from the direction on the other side of the hotel. Within seconds of this, Officer Zurbuchen heard a transmission via radio from Officer O'Neill that shots had been fired. Officer Zurbuchen ran across the parking lot towards Officer O'Neill. Officer Zurbuchen observed Officer O'Neill covering the person lying on the ground. Officer Zurbuchen said he and Sergeant Axness attempted to make verbal communication with the person on the ground. Officer Zurbuchen said no response was received and that it was obvious the suspect was severely injured. Officer Zurbuchen confirmed that Sergeant Axness did perform CPR on the suspect. Officer Zurbuchen said he assisted Sergeant Axness until paramedics arrived to take over. Officer Zurbuchen estimated this to be within minutes of the shooting.

Sergeant Bill Slaggie was interviewed as part of the investigation. Sergeant Slaggie confirmed that he responded to a report of a man with a gun in the area of the Scottish Inn parking lot. Sergeant Slaggie said he was on the southwest end of the property when he heard gun shots. Sergeant Slaggie said he and Officer Zurbuchen ran across the parking lot and that he heard Officer O'Neill give a radio transmission of shots fired. Sergeant Slaggie said he saw Sergeant Axness providing life saving measures. While that assistance took place, Sergeant Slaggie stayed with Officer O'Neill.

Citizen Witness Interviews

J.S. was interviewed as part of the investigation. J.S. was at the Kwik Trip on West MacArthur Avenue at the time of the shooting, along with her mother and a friend. While at the Kwik Trip, J.S. heard her friend state "Oh my god!" while pointing at the hotel. J.S. said that in response to this, she looked up and observed a guy holding and pointing a gun at a police car in the parking lot next to the hotel. J.S. said she could not see the police officer but the guy was pointing a gun and walking towards the police car. J.S. said she heard at least one gun shot and then observed the guy lay down on his back in the parking lot. J.S. further described the manner in which the guy held the gun, stating "It kind of seemed like he was about to shoot someone."

R.B. was interviewed as part of the investigation. R.B. was at the Kwik Trip on West MacArthur Avenue at the time of the shooting, along with his son, W.B. R.B. advised that he was in the process of getting out of the car when his son, W.B., stated "Dad that guy has a gun." R.B. advised that he got back into his vehicle. R.B. said he saw the individual who was pointing a gun walking right towards the police car. R.B. said he decided to move his vehicle to a safer place. R.B. said that as he started the vehicle and was turning, he heard the gun shots. R.B. demonstrated how the person was holding the gun and also described the situation in the following manner: "To me the individual was walking directly towards the police vehicle and it seemed like he was talking or yelling at him, holding the gun and then heard the gun shots."

Zank Wallet Contents

As part of the investigation, the contents of Matthew Zank's wallet were logged. Among the contents were a credit card and a piece of paper folded several times. The piece of paper contained a handwritten note. The note read: "TO THE COP THAT SHOOT ME I AM SORRY THAT I MADE YOU DO IT DO NOT FEEL BAD MY LIFE WAS WORTHLESSLES." The handwritten note also contained the name and address of a sibling.

Zank Room Search

As part of the investigation, the room of Matthew Zank at the Scottish Inn and Suites, Room 202, was searched. Among the contents located were six different prescription pill bottles, paper and documentation providing Matthew Zank's information on them, and seven empty Hurricane High Gravity 40 oz. malt liquor bottles.

Paramedic / EMS Interviews

Paramedic Steven Patten was interviewed as part of the investigation. Paramedic Patten advised that when he arrived on scene at 1135 West MacArthur Avenue, he observed a person lying on their back and appeared to be receiving CPR from City of Eau Claire police officers. Paramedic Patten stated he obtained life rescuing equipment and went over to the patient. Upon making contact with the patient, other firefighters took over CPR for the police officers. Paramedic Patten checked the patient and found no pulse and continued on with compressions. Paramedic Patten said the patient was placed on a longboard. Paramedic Patten advised that three leads were put on the patient and found the patient to be pulseless, his eyes dilated, and in a lifeless state. Paramedic Patten advised that Paramedic Robinson called a doctor in reference to this situation. Paramedic Patten said the patient was declared deceased at 07:33 a.m.

Paramedic Andrew Robinson was interviewed as part of the investigation. Paramedic Robinson said that lifesaving measures were used for approximately five to ten minutes or more. Paramedic Robinson confirmed the consultation with the doctor. Ultimately, lifesaving techniques ceased and the patient was declared deceased. Paramedic Robinson said the patient did not say anything during treatment of the patient.

Matthew Zank Autopsy Report

As part of the investigation, an autopsy was performed by Dr. Vincent Tranchida. Dr. Tranchida concluded that it is his “medical opinion that Matthew C. Zank died following a rifle gunshot wound of the torso with ensuing devastating internal visceral injuries and internal hemorrhaging.” The cause of death listed in the autopsy is “gunshot wound of torso.” The autopsy also found Matthew Zank had a blood ethanol concentration of 0.137.

Zank Weapon Purchase Details

As part of the investigation, law enforcement subpoenaed bank record information for Matthew Zank. One transaction noted on the bank records was a purchase at Walmart in Eau Claire on January 25, 2017 for \$31.62. Law enforcement obtained video surveillance from Walmart on January 25, 2017. Video surveillance shows Matthew Zank placing a Daisy brand BB pistol on the counter. Zank is observed removing a credit card and paying for the pistol. In the video footage, Zank is wearing black shoes, blue pants, and a tan/green jacket. Follow-up with Walmart confirmed a single transaction at 7:47 a.m. on January 25, 2017 with the last four digits of Zank’s credit card. The transaction was for a Daisy Powerline Model 415 CO2 powered semi-automatic BB pistol.

Zank Sibling Interview

Matthew Zank's sibling, M.A.Z. was interviewed on January 28, 2017 as part of the investigation. M.A.Z. advised seeing Matthew Zank about a week prior. Matthew Zank had stopped by the residence and asked to stay there. M.A.Z. advised Matthew Zank that he could not stay at the residence. M.A.Z. advised being afraid of Matthew Zank. M.A.Z. indicated that Matthew Zank was not stable. M.A.Z. advised of contact with Eau Claire County workers. M.A.Z. was advised to contact police if Matthew Zank showed up and to keep the doors locked.

Use of Force Justified

After a review of the investigation performed by the City of La Crosse Police Department, I have concluded that City of Eau Claire Police Officer Kristopher O'Neill was justified in the use of lethal force on January 28, 2017 during the incident that resulted in the death of Matthew Zank. The totality of circumstances shows that the use of lethal force was justified. The analysis of those reasons includes, but is not limited to, the following information:

1. Matthew Zank called 911 on January 28, 2017 to report a man in the parking lot at the Scottish Inn and Suites who was waving a gun at people and vehicles. Matthew Zank made this call to 911 in an effort to get law enforcement to respond to that location.
2. Matthew Zank was brandishing a weapon in the parking lot of the Scottish Inn and Suites when Officer O'Neill arrived at the parking lot in his squad car.
3. Officer O'Neill was provided information while en route by dispatch that a man was waving a gun at people and vehicles in the parking lot of the Scottish Inn and Suites.
4. Upon arrival at the scene, Officer O'Neill immediately recognized the suspect based on the information provided by dispatch, including the suspect's clothing and the fact that the suspect was holding a gun.
5. When Officer O'Neill exited his squad car, he gave no fewer than seven commands to Matthew Zank to drop the weapon.
6. In response to the verbal commands by Officer O'Neill, Matthew Zank did not drop the weapon and continued to walk toward Officer O'Neill while brandishing the weapon. After the last verbal command to Zank to drop the gun, Zank verbally stated he would not drop the weapon.

7. Multiple independent citizen witness accounts corroborate that Zank was brandishing the weapon and walking toward Officer O'Neill.
8. When interviewed, Officer O'Neill was clear that he believed his life was in danger, given the actions of Matthew Zank and that he felt Matthew Zank was going to kill him or someone else.
9. Matthew Zank made multiple statements regarding an intent to commit suicide in the days and weeks leading up to January 28, 2017. Matthew Zank specifically acknowledged a suicide attempt in December of 2016.
10. The plain meaning of the note found in Matthew Zank's wallet after he was shot makes it clear that Zank intended to have an officer shoot him and end his life. The actions Matthew Zank took on January 28, 2017 prior to getting shot corroborate his plan to end his life.

I would like to thank Captain Shawn Kudron and the City of La Crosse Police Department for performing a comprehensive investigation into the incident that took place on January 28, 2017. The materials submitted as part of the investigation included hundreds of pages of police reports, transcripts, photographs, videos, recorded interviews, scene reconstruction reports, ballistic and autopsy results, as well as other miscellaneous information. The information provided in the investigation supports the conclusion that City of Eau Claire Police Officer Kristopher O'Neill was justified in the use of lethal force under the totality of circumstances on January 28, 2017.

Thank you for your time and consideration of this information.

Gary King
District Attorney
Eau Claire County