

**Administrative Review of Officer Involved Shooting**

*Eau Claire Police Department Case #17PD15279*

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## **Administrative Review of Officer Involved Shooting**

### ***Eau Claire Police Department Case #17PD15279***

#### **Executive Summary**

##### **Introduction**

This administrative review will explain the facts pertaining to the officer involved death as well as events leading up to and following the death. This document contains the facts of the case which include officer(s) actions and decision making. The facts were gathered from officer reports, the comprehensive investigative report completed by the La Crosse Police Department and the criminal review by the Eau Claire County District Attorney's Office (Appendix #A).

The administrative review will identify specific department policies, procedures, training, and best practices relevant to these specific actions and decision making. The officer(s) actions and decision making will be evaluated in a "Findings" portion of the review, identifying if the officer(s) actions were appropriate within the scope of department policies, procedures, training, and associated best practices.

##### **Summary of Incident Events**

On July 22, 2017 at 2029 hours Eau Claire Police Department Officers Wutschke and Briski were dispatched to 4527 Woodford Court, in the City of Eau Claire, upon the report of a male at that location who had made homicidal and suicidal statements to a female companion. The male was identified as Michael Caponigro of the aforementioned address. The female was identified as his girlfriend, [REDACTED]. Eau Claire County Sherriff's Deputy Donald Henning was approached by [REDACTED] near the Country Jam grounds this same evening. She told Deputy Henning that she had been with Caponigro at Country Jam, and on the way home he told her "I'm going to kill you and then I'm going to kill myself". Upon hearing this, and as they neared an intersection, [REDACTED] fled from the vehicle because she believed Caponigro was serious about what he said and she feared for her safety.

When learning of the threats and after attaining further information, Deputy Henning contacted the Eau Claire Communication Center to make them aware of the threats stated by Caponigro and to request a check of his welfare. The request included the presumption that Caponigro was either at or on the way to his residence on Woodford Court.

Officers Wutschke and Briski were in uniform and operating fully marked patrol vehicles. They approached a man later identified as Michael Caponigro standing near a truck in the driveway of his residence. Both officers were met with verbal hostility after identifying themselves and attempting to initiate a dialogue with Caponigro. Caponigro stated to the officers "fuck you, get the fuck out of here, back the fuck up", and lifted the front of his shirt exposing a holstered handgun in his front waistline. In addition to expressing anger towards the officers he also told them that things could "go bad". Caponigro then entered his home.

At approximately 2047 hours Officer Wutschke communicates to the Communication Center that Caponigro was in possession of a gun. Officers Wutschke and Briski took cover and maintained over watch of Caponigro's residence. All available officers were dispatched to 4527 Woodford to assist officers Wutschke and Briski.

The additional on-duty Eau Claire Police Department personnel who responded at this time are listed below in Figure 1.

Sergeant Aaron Jensen	Officer Phillip Noland	Officer Noah Young
Sergeant Brandon Dohms	Officer Jacob Olson	Officer Mark Vang
Officer Michael Cullen	Officer Abram Palmer	Officer Michael McClain
Officer Jacob Hoople	Officer Jason Ruppert	Officer Timothy Aldrich
Officer Mitchell Hunsley	Officer Robert Schreier	Officer David Chapin
Officer Tyler Larsen	Officer Ellen Schroeder	
Officer Riley McLennan	Officer Marcus Walden	

Figure 1.

When the additional officers and Sergeant Dohms arrived on scene a perimeter was established. Contact was made with some nearby residents with instructions to "shelter in place". Intermittent communication with Caponigro was taking place while resources arrived and additional personnel were added to the perimeter. However, this communication was sporadic and only occurred when Caponigro would exit his residence in an effort to locate our officers. When he did so, Officer Wutschke commanded him to show his hands". Caponigro replied by saying "fuck you" several times. Caponigro then retreated to the interior of the residence.

At approximately 2053 hours a male was seen by officers being pushed out of the residence. He held his hands in the air and he was proclaiming "I'm innocent, I'm innocent". This man was identified as [REDACTED], Caponigro's roommate. [REDACTED] was taken into protective custody by Officer Tyler Larsen. [REDACTED] told Officer Larsen that Caponigro stated to him that he [REDACTED] needed to leave the residence.

Caponigro made several statements to him such as "something was going to be bad" and his desire to "end it all" while police were present. [REDACTED] stated that Caponigro had taken his .45 caliber pistol. [REDACTED] asked Caponigro to return the gun to him but he refused. Shortly thereafter [REDACTED] departed the residence and was contacted by officers.

Several times throughout the incident Caponigro walked out of his home both with and without a handgun. This occurred at 2047, 2055, and 2056 hours. He did not comply with officer's commands to stop and drop the handgun and would return to the interior of the home. At this point it was known from the field interview with [REDACTED] that Caponigro was also armed with a shotgun. At 2125 hours the Eau Claire Communications Center informed officers they had spoken with [REDACTED], brother of Michael Caponigro. [REDACTED] stated that Michael Caponigro had called him and stated he was going to have a "standoff with the police." [REDACTED] also informed staff at the Eau Claire Communication Center Michael Caponigro was in possession of two weapons.

At 2128 hours Eau Claire Communication Center received a 911 call from Michael Caponigro. Sergeant Andy Wise advised he would field the call from the Communication Center. Sergeant Wise is the

Coordinator of the Eau Claire Police Department Crisis Negotiation Team and was the designated primary negotiator. Sergeant Wise did not speak with Caponigro right away, but rather spoke with him at approximately 2152 hours. This was immediately after Caponigro informed Eau Claire Communication Center that he would be “coming out blazing” if he was not allowed to speak directly with Sergeant Wise. During this same timeframe officers began to evacuate residents from the adjoining units to Caponigro’s residence. The occupants of 4527 Woodford Court #1 were later evacuated under the protection of officers when it was deemed safest to do so. Officers learned later that the residents of unit #2 were not there during the time of the incident and would not be returning any time soon.

In order to maximize the visibility of Caponigro’s residence, several squad cars and the Eau Claire Police Department Armored Rescue Vehicle (ARV) directed their lights on the home. This is a common tactic to improve visibility. While speaking with Sergeant Wise, Caponigro stated the position of these vehicles was agitating him. He also told Sergeant Wise that if the lights weren’t turned off he would exit his home firing his weapon. At approximately 2202 hours Caponigro was seen at the front window of his home attempting to break that same window with a long gun.

Caponigro repeatedly demanded these lights be shut off and that if they weren’t he would come out shooting. Caponigro threatened to open a window and start shooting or shoot at officers with his handgun and shotgun. At approximately 2214 hours Caponigro told Sergeant Wise he had someone in his sights and that he would take them out.

During Sergeant Wise’s attempted negotiation, Caponigro made several threatening statements about the safety of the officers who were on scene outside of his home. These statements included “I’m gonna open that fucking curtain and I’ve got a shotgun here. I’m gonna start fucking blasting out that door.” “I got this house barricaded. You’re not coming in.” “If somebody’s coming in, they’re gonna get hurt.” “I’m going to come out blazing if you don’t get the lights off my fucking door.” Caponigro’s threats made during the attempted negotiations were relayed to the Incident Command and other on-scene officers.

Several steps were then taken to prepare for and mitigate Caponigro’s threats. The ARV was moved to the front of the garage to prevent Caponigro from leaving in a vehicle. Several officers readied themselves with less-lethal munitions. The Eau Claire Police Department Tactical Response Team was now on scene, over watch was established, and with the assistance of the Eau Claire Regional SWAT Team a plan was set to use chemical agents.

The following notable events then occurred within a time span of several minutes.

- At approximately 2336 hours Tactical Commander Sergeant Mark Pieper informed on-scene officers Caponigro threatened to shoot a light out.
- At 2339 Sergeant Pieper informed on-scene officers Caponigro gave a two minute deadline.
- Immediately after the previous warning an officer advised over the radio that he (an unidentified male officer) could see Caponigro standing in the window with a “sling on display”.
- At 2343 hours an unidentified officer advised Caponigro was breaking out the window, and that Caponigro was “pacing with a long gun in the window”.
- At approximately 2345 hours Sergeant Pieper requested ECSO to initiate their gas plan.

- At 2346 hours an unidentified male officer advised Caponigro was at the window “with the shot gun” and “on the phone”.

Chemical agents were deployed and several officers either saw or heard a shot coming from the interior of Caponigro’s home. It was determined that Caponigro fired the long gun he had in his possession out of a front window of the home and toward officers and nearby homes.

Sergeant Henning and Officer Jacob Olson were deployed providing over watch, each with a tactical rifle outfitted with an optical scope. The two of them were positioned to the west of Caponigro’s residence with a view of the front of the residence. At 23:46:30 an unidentified male officer advised an Eau Claire Police Officer had shot one time. Sergeant Henning had fired his rifle immediately after Caponigro shot at officers. At 2348 hours Sergeant Jesse Henning advised it was he who had shot via police radio. Officer Olson attempted to fire his rifle simultaneous to and independent of Sergeant Henning. Officer Olson’s rifle did not fire due to a malfunction.

After Sergeant Henning fired his rifle Sergeant Pieper coordinated the clearing of 4527 Woodford Court #3. This was done both mechanically with a pole mounted camera system and by members of the Tactical Team entering the home. Officers found no other person in the home. Eau Claire Fire Department personnel entered the home as soon as it was deemed safe. Eau Claire Fire Department Paramedics Dave Molitor and Shawn Willi tended to Caponigro. Paramedics Molitor and Willi could not identify a pulse, and coupled with the amount of Caponigro’s blood loss, determined Caponigro was deceased. On July 23, 2017 at 0155 hours Eau Claire County Medical Examiner Marcie Rosas pronounced Caponigro as deceased.

### **Criminal and Administrative Review**

Investigators from the La Crosse Police Department completed the investigation into the legality of Sergeant Henning’s use of deadly force. This investigative report was submitted to Eau Claire County District Attorney Gary King for review. District Attorney King determined Sergeant Henning’s use of deadly force was appropriate. District Attorney King exonerated Sergeant Henning of any criminal wrongdoing. Based on the nature of this incident and Michael Caponigro’s death, there was no Eau Claire Police Department criminal investigation into a suspect’s actions.

Eau Claire Police Department Lieutenant Ryan Dahlgren completed the administrative review of this incident. It is the conclusion of this administrative review that the decision making and actions of all Eau Claire Police Department personnel were appropriate and compliant with the Eau Claire Police Department policies and procedures.

### **Conclusions**

The administrative review of the incident and follow through actions determined that the actions of all Eau Claire Police Department personnel were appropriate and consistent with policy, procedures, training, and best practice.

The most significant area of inquiry was Sergeant Henning's use of deadly force. The administrative review of this shooting incident determined Sergeant Henning's use of deadly force was objectively reasonable and compliant with Eau Claire Police Department policy. The administrative review determined Officer Olson's attempted use of deadly force was also objectively reasonable and compliant with Eau Claire Police Department policy. Both Sergeant Henning and Officer Olson believed themselves and others were faced with an imminent threat of death or great bodily harm based on the following facts:

- The initial information Sergeant Henning received via the TRT page; that there was a suicidal/homicidal subject who had barricaded himself at 4527 Woodford Court #3.
- Caponigro had forced his roommate from the residence at gunpoint.
- Caponigro had confronted the initial responding officers (Wutshcke and Briski) with a handgun.
- Negotiations with Caponigro were unsuccessful and Caponigro's demeanor was sustainably agitated and hostile towards officers.
- Caponigro was in possession of and had access to several firearms.
- Caponigro made verbal threats to shoot officers and others in the vicinity.
- Caponigro's threats were effectively communicated to police personnel in order to assist with decision-making.
- Caponigro threatened to leave on his motorcycle and harm others.
- Caponigro posed a threat to the officers and public, demonstrated by the various threats he made during communication with and relayed by Sergeant Wise.
- Caponigro made several threats to shoot officers if the squad lights weren't extinguished as he demanded.
- Caponigro told Crisis Negotiator Sergeant Wise he had an officer in his "sights". This was made known to officers on scene, including Sergeant Henning.
- Caponigro gave a two minute countdown warning/threat to officers because his demands were not being met.
- Caponigro raised a long gun upward and pointed in the direction of Sergeant Henning and other officers in the vicinity.
- Caponigro fired a gun at officers.

This administrative review determined that officer's use of deadly force was Michael Caponigro's intended outcome for this incident. This is evidenced by the following:

- Michael Caponigro's references to [REDACTED] in the past tense hours earlier at the Country Jam grounds.
- Threats to harm [REDACTED] and self, hours earlier at the Country Jam grounds.
- Caponigro's telephone call from his residence to daughter [REDACTED] Caponigro told her he loved her in a manner in which she interpreted he intended to die. Caponigro told [REDACTED] he was going to "go out blazing."
- Caponigro made a second and similar telephone call to daughter [REDACTED]

- Caponigro made a telephone call during this incident to step-son [REDACTED]. Caponigro informed [REDACTED] he signed over his car titles to him and he intended to have a stand-off with police.
- Removed roommate [REDACTED] from residence in a threatening manner. Caponigro told [REDACTED] he had his gun and things “will not get well.”
- Displayed a handgun and made specific threats to initial responding Officers Wutscke and Briski. Caponigro told officers “fuck you” and “I am going to make you shoot me.”
- Caponigro would not participate in attempts to de-escalate the situation through crisis negotiations. Negotiations consisted of a series of more than 30 telephone conversations over a span of more than one hour and forty-five minutes. Caponigro remained agitated and made threatening remarks during these conversations.

### **Contents of Review**

The following narrative contains a detailed comprehensive administrative examination of the supervisors’ and officers’ decision making and actions. The primary components of the review are:

- Background information regarding Michael Caponigro.
- Initial call for service information.
- Initial officer response.
- Containment and de-escalation efforts.
- Use of deadly force.
- Follow-through actions.

Attached to this report are four documents:

- Appendix A: Eau Claire District Attorney Gary King’s document.
- Appendix B: Tactical Response and Operations Standard for Law Enforcement Agencies- National Tactical Officers Association (NTOA).
- Appendix C: Training materials. NTOA Team Leader Development course.
- Appendix D: Eau Claire Police Department Standard Operating Procedure – Use of Armored Rescue Vehicle.

### **Background Information on Michael Caponigro**

Michael Caponigro has several contacts with various law enforcement agencies in west central Wisconsin. His contacts include arrests for domestic related crimes to include an arrest in the City of Eau Claire in 2016 (16-6102).

Family members, friends, co-workers and employers have all described Caponigro as having anger issues and as having trouble in personal relationships. Michael Caponigro’s brother [REDACTED] stated Michael Caponigro became despondent over the death of their older brother Harold in 2004, so much so that he attempted to take his life by overdosing on pills (Lake Hallie PD case 2004-4766). [REDACTED] goes on to say that after the death of their brother, Michael Caponigro had never been the same.



In March of this year another brother, Lou, died and his death sent Michael Caponigro “off the tipping point” according to [REDACTED]. [REDACTED] called Michael Caponigro “extremely emotionally depressed and was definitely not himself from that point on out.” [REDACTED]

[REDACTED] The family lost two siblings to suicide, [REDACTED] believes Michael Caponigro should have been medicated but he refused to do so stating that to take medication is a sign of weakness. The following subsections contain information from friends and family who provided insight in regards to Caponigro’s background. These same individuals also had contact with him that evening and gave their perspective on his state of mind and behavior.

[REDACTED]

Michael Caponigro had two daughters, [REDACTED] and [REDACTED]. In an interview with the La Crosse Police Department [REDACTED] revealed that Michael Caponigro had been an alcoholic for as long as she could recall. She also revealed that he had been physically abusive towards her and her mother, Michael Caponigro’s first wife [REDACTED]. [REDACTED] recalled a time when she was living with him in Lake Hallie in which he threw her down, kicked her and broke a chair because he had been unhappy with the way she cleaned the house. He also called her names such as “bitch”, “slut”, and “whore”. As a result, [REDACTED] called the Lake Hallie Police Department out of concern for her safety. Michael Caponigro hung the phone up shortly after the call was answered. When the Chippewa County Communications Center called back [REDACTED] answered, and Michael Caponigro told [REDACTED] to tell the Communications Center the call was accidental. When Lake Hallie PD arrived Michael Caponigro was able to convince them nothing had happened. [REDACTED] went to her mother’s home, and when she shared what happened her mother’s response was “oh my God, I never thought he would do that to you.”

[REDACTED] spoke of a time as a child when she went deer hunting with Michael Caponigro. At some point during a walk he pointed his rifle towards her and stated he could “take care of my child support right now.” [REDACTED] went on to explain other instances of abuse she suffered at the hands of Michael Caponigro throughout her life. She also explained that she witnessed many instances of abuse her mother suffered at the hands of Michael Caponigro. [REDACTED] told investigators from La Crosse PD of an occasion when she was a child where a woman told her mother she was “seeing” Michael Caponigro. Later in the evening Michael Caponigro came home intoxicated, and [REDACTED] confronted him with what the woman told her. Michael Caponigro beat [REDACTED] head into a wall “until the neighbors called the police.” He also bit her hand which caused further injury. In another instance [REDACTED] recalled to investigators where her father came home drunk, yelled at her mother, and then beat her mother “until she was bleeding.” [REDACTED] goes further to state Michael Caponigro threw her then “grabbed a butcher knife from the kitchen and came after her [REDACTED] ran to a neighbor for help, Michael Caponigro was arrested, and her parents divorced. [REDACTED] has spoken with Michael Caponigro rarely in the past year as he voiced his displeasure with the way she lives her life, specifically her choice in the men she has relationships with.

During the evening of July 22, 2017 [REDACTED] received a message from [REDACTED], son of Michael Caponigro’s [REDACTED]. [REDACTED] told her there was a “situation” going on with Michael Caponigro, and that he believed Michael Caponigro to be suicidal. Michael Caponigro called [REDACTED] that same evening at approximately 2045 hours. He told [REDACTED] “I love you, you will always be my daughter.”

During a subsequent conversation, and when she learned he was armed, she urged him to put the guns down. He replied “no, I am going out guns a blazing.” This was the last conversation she had with her father. While speaking with La Crosse PD investigators she asked “is it bad that I am glad he is dead?” She explained the nature of her question by stating the reason for her feelings is she needn’t worry about Michael Caponigro hurting her or her children any longer.

██████████ is the ██████████ daughter of Michael Caponigro. ██████████ stated to La Crosse Police Department investigators she had a good relationship with her father and considered him to be a “great guy and a good grandfather.” When asked her opinion of his relationship with ██████████ called it “vastly different.” She believed the difference to be due to the fact ██████████ began work as a teenager and did not see her father as often during scheduled visits. ██████████ spoke about the violence her mother endured at the hands of Michael Caponigro, specifically that she had seen him “throwing her around.”

When ██████████ was asked about her father’s suicide ideation or attempts she recalled two instances; one fifteen years ago and the second a couple of years (no specific year given) previous. The incident fifteen years occurred in Lake Hallie and involved Michael Caponigro overdosing on pills. According to ██████████ he was placed on a Chapter 51 hold. The second attempt happened in Chippewa Falls. Michael Caponigro called ██████████ to say goodbye and that he had a gun. She was not certain law enforcement intervened and could not speak on the details of how that situation was resolved. ██████████ believes the origin of this attempt may have been associated to the death of Michael Caponigro’s brother Harold who died of a self-inflicted gunshot shortly before this incident.

██████████, like ██████████ spoke with her father the evening of July 22, 2017. Michael Caponigro was crying during the call and told her things such as “I need you to know that I love you...and I’m sorry for being a bad dad at times.” When she asked if he was alright he replied “I’m done, I can’t deal with this anymore”, and “I’m not coming out of this.” She stated she was not surprised her father was declining due to his brother Lou’s death, but didn’t think things would transpire the way they did.

██████████ was Michael Caponigro’s step son, and biological son to Caponigro’s ██████████. ██████████ Michael Caponigro and ██████████ were married for approximately seventeen years. ██████████ describes their relationship as generally amicable with a few exceptions to include the evening Michael Caponigro was placed on a Chapter 51 hold. That evening ██████████ intervened when Michael Caponigro pushed ██████████. A physical confrontation ensued which ended when ██████████ pushed Michael Caponigro down a flight of stairs. After the divorce ██████████ and Michael Caponigro remained in contact, especially so in recent years.

On the evening of July 22, 2017 Michael Caponigro called ██████████ around 2000 hours. ██████████ could hear Michael Caponigro and ██████████ arguing in the background. Michael Caponigro told ██████████ he signed over the titles of his vehicles to him and told him there was money in the safe. This caused ██████████ to “freak out” and he drove to Eau Claire from his home in Somerset. ██████████ arrived near the established perimeter at Woodford Court and could hear what was happening through police radios. ██████████ spoke intermittently with Michael Caponigro as this was happening and stated Michael Caponigro was “talking in circles, making no

sense, and repeating statements about the vehicle titles.” [REDACTED] heard the gunshots and knew what that meant.

[REDACTED]

La Crosse investigators spoke with Michael Caponigro’s brother [REDACTED] in regards to both the family history and the evening of July 22, 2017. [REDACTED] [REDACTED] specified by saying that a sister and brother committed suicide and [REDACTED] [REDACTED] also thought Michael Caponigro should have been taking medication but believed he was not.

[REDACTED] states Michael Caponigro took the deaths of their brothers Lou and Harold especially hard and became depressed and deeply changed for the worse from that point. Michael Caponigro made statements alluding to the point that he wished to be with Lou and Harold and he was having dreams in which they were telling Michael Caponigro to come to them. [REDACTED] states Michael Caponigro is “mean, insulting, agitated” when he is drinking alcohol and believes him to be an alcoholic.

On the evening of July 22, 2017 [REDACTED] was in Milwaukee visiting his sister in law [REDACTED], widow of their brother. [REDACTED] called Michael Caponigro and could hear from Michael Caponigro’s voice he was agitated and his speech slurred. Michael Caponigro told [REDACTED] he was going to make the police shoot him, and despite [REDACTED] urging Michael Caponigro would not surrender peacefully to police. [REDACTED] told investigators he was not surprised how events ultimately unfolded given Michael Caponigro’s statements. [REDACTED] stated he felt bad for the police officer who had to take Michael Caponigro’s life and was sorry for the toll the shooting may take on the officer’s life.

[REDACTED]

[REDACTED] was Michael Caponigro’s roommate and friend. [REDACTED] has known Michael Caponigro for approximately twenty years and has lived with Michael Caponigro on a couple of different occasions, most recently for the past year and a half at the Woodford Court address. He knew Michael Caponigro to have a darker side especially most recently after the death of his brother Lou. Michael Caponigro would make remarks to [REDACTED] such as “I think I am going to go and see my brothers, I have nothing here.” Michael Caponigro also would tell [REDACTED] about dreams he was having where his brothers were telling them to come join them. [REDACTED] suggested to Michael Caponigro that he seek help for these ideations but Michael Caponigro would not heed his encouragement.

On the morning of July 22, 2017 [REDACTED] went to Winter, WI for the day and returned home around 2000-2030 hours. [REDACTED] noticed he was “acting very strange and was half-dressed.” [REDACTED] asked Michael Caponigro where [REDACTED] was because he saw [REDACTED] car but didn’t see [REDACTED]. When [REDACTED] inquired about her whereabouts, Michael Caponigro stated “I don’t know [REDACTED], things aren’t good, and things aren’t going to go good here.” [REDACTED] believed Michael Caponigro and [REDACTED] had another argument and [REDACTED] may have been on a walk. After a short time Michael Caponigro entered his bedroom and told him “you got to leave, you got to fucking leave now” and “I am done with everything; it’s not going to get well.” When [REDACTED] asked Michael Caponigro to explain he told [REDACTED] to “grab your shit, grab everything, grab your phone and

get the hell out of here.” [REDACTED] began to leave as he thought Michael Caponigro didn’t wish for [REDACTED] to see him and [REDACTED] argue.

As [REDACTED] was leaving Michael Caponigro shook his hand and told him “it’s been good knowing you, you have been a good friend, this has nothing to do with you.” Michael Caponigro also told [REDACTED] that he had his pistol. [REDACTED] asked Michael Caponigro to return it to him but Michael Caponigro said no and by the tone of Michael Caponigro’s voice [REDACTED] knew it wouldn’t be a good idea to push the matter. As he was leaving he saw [REDACTED] purse in Michael Caponigro’s hand. He began to think that Michael Caponigro may have harmed [REDACTED]. Once he exited he found police officers with guns drawn giving him commands to drop and show his hands. [REDACTED] was handcuffed and taken into custody.

[REDACTED] was interviewed by officers regarding several aspects related to this incident. He was asked about Caponigro’s statements, presence and location of firearms, and other persons in the residence. Additionally, [REDACTED] was asked to complete a diagram of the residence. [REDACTED] described the officer’s behavior as “very professional.” [REDACTED] fielded a phone call from Michael Caponigro after he had been seated in the back seat of a squad car. He attempted to persuade Michael Caponigro to surrender peacefully but Michael Caponigro reiterated that it had nothing to do with him [REDACTED] and again apologized. Michael Caponigro also told [REDACTED] that he would “not be coming out of here.” [REDACTED] believed the “police did everything they could, I know they did, they were great.” [REDACTED] also stated he felt bad for the officer who shot saying “I feel bad for the officer; I hope he is doing okay.”

[REDACTED] had been Michael Caponigro’s girlfriend and was with him for an extended period of time on July 22, 2017. By her account she and Michael Caponigro had been together for approximately the past four years or so. She described their relationship as volatile and “on again off again”, most especially within the last two years. She states the turning point in their relationship occurred when Michael Caponigro began physically and verbally abusing her. The abuse was usually predicated by Michael Caponigro’s “heavy drinking”, and on one occasion in March of 2016 he was arrested for battering her. She goes further to describe him as “very belligerent, agitated, aggressive, and abusive when he drinks.”

Recently, she and Michael Caponigro were not together but he would follow her. Michael Caponigro would appear at different locations where she was; leaving her to wonder how he would know she was to be where she was. His behavior led her to believe he was quite probably stalking her. About a month after she noticed he was following her Michael Caponigro began to “aggressively call” her. After the communication began she agreed to see him. Their interactions started out fine, but soon regressed into a familiar pattern with Michael Caponigro calling her names such as “cunt”, “slut”, “whore”, and “bitch”.

In mid-July of this year Michael Caponigro asked [REDACTED] if she would like to go to Country Jam with him. She agreed to go with him on Thursday and Saturday but said she would be going with her sister Friday. [REDACTED] drove to Michael Caponigro’s residence on Saturday July 22, 2017 around 1500 to find that he was already drinking alcohol and intoxicated. [REDACTED] described him as in a foul mood and asked him to stop drinking for a while and asked him to not be an “asshole”. Michael Caponigro became upset but told her he would stop drinking.

The two departed for the Country Jam grounds shortly after [REDACTED] arrival to Michael Caponigro's home. Things between the two of them seemingly went well until 1900 hours or so. At that time a hard rain fell and the two of them became separated as they sought shelter from the rain. They reconnected after the rain subsided and she found him to be angry with her because he believed she intentionally "ditched" him. He began to call her derogatory names and acted in a jealous manner, wanting to know where she had gone and whom she was with. His demeanor toward her remained negative, and at about 2000 hours she stated she had enough and told Michael Caponigro she wanted to go home. This further angered Michael Caponigro and he continued with the name calling. Michael Caponigro began talking about [REDACTED] in the past tense saying things such as she "was a good grandmother... girlfriend... and a good friend to a lot of different people."

[REDACTED] asked Michael Caponigro why he was referring to her in the past tense. He answered her by saying "if I can't have you, no one will." As they left the parking area Michael Caponigro spoke with his stepson [REDACTED] on the telephone. [REDACTED] heard Michael Caponigro say to [REDACTED] that he was going to be with his brothers, and that he had signed the title of his Firebird over to him. As they continued Michael Caponigro told [REDACTED] "I'm going to kill you and then I'm going to kill myself." She knew he was serious and also knew she had to get out of the vehicle. As they neared an intersection she saw a number of squad cars and made her exit as the vehicle slowed. It was here she spoke to Deputy Henning, and it was this conversation which led to the incident at Caponigro's residence on Woodford Court.

The following subsections will pertain to information regarding his employment with the City of Eau Claire. This information is derived from first-hand accounts of supervisors and coworkers and personnel records.

[REDACTED], *City of Eau Claire*

When asked if she was familiar with Caponigro [REDACTED] stated she was, having fielded an FMLA question from him on March 6, 2017. Michael Caponigro informed her that his brother was in a Milwaukee hospital after suffering a heart attack. He told her he wished to use employee sick leave to visit his brother. [REDACTED] informed him this was not an approved use of such leave; rather he should use vacation or compensatory leave to visit his brother. In response he told her that would "go to the doctor and use regular sick leave". She went on to describe his demeanor as argumentative and confrontational and heard from other employees that he was a "hot head". [REDACTED] informed his supervisor of their interaction and suggested they discuss his performance with the Human Resources Director. This was the last of any interaction she had with Michael Caponigro.

[REDACTED], *City of Eau Claire*

[REDACTED] informed La Crosse investigators that she was familiar with Michael Caponigro, and first interacted with him in 2009 in regards to a worker's compensation claim. The claim was a result of a fall at the Wastewater Treatment Facility. She describes him as "very uncooperative", based on his failures to return her phone calls and provide necessary information for the claim. She also described him as "short tempered" and recalled him yelling at an insurance adjustor in 2010.

The next interaction she had with Caponigro was in April of 2017. Michael Caponigro was involved in a crash at the Wastewater Treatment Facility while in his personal vehicle. It was believed he was on his cell phone when he crashed into a gate on city property. He denied this was the case and refused to turn over his phone records. Michael Caponigro was disciplined as a result of the incident and for his refusal “to accept responsibility for his actions and uncooperative behavior”. Due to his demeanor [REDACTED] requested a police officer to stand by in an adjacent room during the subsequent disciplinary meeting with Caponigro. This is not a standard practice during disciplinary procedures and was based solely on his behavior. This was the last interaction she had with Caponigro.

### ***Other Disciplinary Issues***

In addition to the above disciplinary actions, Caponigro was disciplined on two other occasions:

- February 3, 2011: Caponigro was issued a written reprimand for not properly responding to an alarm at the Waste Water Treatment Facility.
- March 8, 2017: Caponigro was issued a written reprimand for being disrespectful while on a phone call to [REDACTED]

[REDACTED], *City of Eau Claire*

[REDACTED] supervised Caponigro since 2007. [REDACTED] describes him as a “good worker... able to get a job done”. He also describes him as “moody, and certain things would set him off”. He also describes him as alternately disrespectful and nice, depending upon what was happening at home.

[REDACTED] stated that Caponigro had, in his opinion, a problem with authority. He specified that Michael Caponigro would not call his supervisors when taking sick leave; rather he would call work peers to inform them he would not be at work. [REDACTED] also called Michael Caponigro “paranoid”, with his belief that people “were trying to get him”. [REDACTED] also made note that he reprimanded him for incidents where he damaged equipment while backing a city truck and other “smaller incidents”.

[REDACTED] perceived Michael Caponigro was having a tough time with his brother’s death. [REDACTED] recalled Michael Caponigro was upset because he wasn’t able to use sick leave for his brother’s illness. [REDACTED] recalled Michael Caponigro’s home life was unstable, with his hearing that Michael Caponigro had different girlfriends and there were rumors of his having fought with girlfriends. Some of his peers informed [REDACTED] that they couldn’t work with Caponigro because of his attitude, and he was the only employee he’s supervised “that he truly wanted fired”.

### ***Criminal History***

- On March 22, 2016 Caponigro was convicted of Disorderly Conduct (domestic) in Chippewa County.
- On July 22, 2016 Caponigro was convicted of Disorderly Conduct in Eau Claire County with a domestic abuse enhancer. An additional charge of Battery (domestic) was read-in.

**Check Person**

***Eau Claire Police Department Case #17PD36254***

***Eau Claire Communication Center and Response to 4527 Woodford Court #3***

Several Eau Claire Police Department officers and telecommunicators were interviewed by La Crosse Police Captains Kloss and Kudron, Sergeants Blokhuis and O’Neill, and Investigator Brandl regarding this incident. Several witnesses were also interviewed. In the following paragraphs, many of the quotes attributed to the respective officers were derived from those reports. The supervisors, officers and telecommunicators interviewed by La Crosse Police are listed below in Figure 2.

Eau Claire Police Supervisors	Eau Claire Police Officers	Eau Claire Police Officers	Telecommunicators
Sergeant Jesse Henning	Officer Ben Wutschke	Officer Mitchell Hunsley	Aileen Bush (Supervisor)
Sergeant Aaron Jensen	Officer Anthony Briski	Officer Tyler Larsen	Jason Knecht
Sergeant Mark Pieper	Officer Jacob Olson	Officer Matt Leque	Joseph Dahl
Sergeant Brandon Dohms	Officer Jacob Gullickson	Officer Nate Ollmann	Theresa Johnson
Sergeant Ben Frederick	Officer Robert Schreier	Officer Mark Vang	Mary Kruschke
Sergeant Andy Wise	Officer Timothy Aldrich	Officer Marcus Walden	
	Officer David Chapin	Officer Bridget Coit	
	Officer Michael Cullen	Officer Todd Johnson	
	Officer Kyle Anderson	Officer Ellen Schroeder	
	Officer Michael McClain	Officer Michael Glennon	
	Officer Jason Ruppert		

Figure 2.

In addition, all reports generated by the Eau Claire Police Department, calls to the Communication Center, relevant radio traffic, and squad car video have been reviewed.

***Eau Claire Communication Center***

On August 2, 2017 Investigator Brandl interviewed Eau Claire Communications Center Telecommunicator (TC) Joseph Dahl and TC Theresa Johnson at the Eau Claire Police Department at 1042 hours and 1048 hours respectively. TC Dahl and TC Johnson were working in the Communication Center on July 22, 2017 for the officer involved shooting incident. Dahl was assigned as the Eau Claire Communication Center dispatcher for Eau Claire County and Johnson was assigned as the Eau Claire Communication Center Fire Department dispatcher.

***Theresa Johnson***

TC Johnson was working as the fire dispatcher for the Eau Claire Communication Center the evening of July 22, 2017 and spoke with Deputy Don Henning initially concerning the situation between [REDACTED] and Michael Caponigro. Specifically that Michael Caponigro was homicidal and suicidal with a gun. As the evening wore on she attempted to get the neighbors out of the units adjacent to Caponigro’s residence as there was a concern the building may be on fire due to smoke coming in from the vents. She also contacted the building’s management and facilitated officer communication. She did not have contact with Caponigro.

### ***Joseph Dahl***

TC Dahl was assigned as the Telecommunicator for Eau Claire County the evening of July 22, 2017. He fielded one phone call from Caponigro who identified himself as MC Hammer. Dahl was speaking with him mainly to buy time as Sergeant Andy Wise was getting set to establish negotiations with Caponigro. Dahl described Michael Caponigro as at first passive then becoming more aggressive as the conversation continued. Prior to that evening he had no previous contact with Caponigro.

### ***Aileen Bush***

TC Supervisor Bush was shadowing and monitoring the work of Joseph Dahl on the evening of July 22, 2017 as it was his final night of training. She states Caponigro called after being initially contacted outside of his residence (presumably by Officers Wutschke and Briski) and inquired as to why no one had contacted him. She did not have any additional contact with him and believes TC Dahl may have spoken with him one to two more times.

### ***Jason Knecht***

TC Knecht spoke with Caponigro several times that evening as his assignment was to answer incoming phone calls to the Eau Claire Communication Center. Knecht recalled Caponigro being “really pissed” about the lights shining on his house. He also recalls that Caponigro threatened to “shoot out the light and that he used the word “blazing”. He also recalls being concerned that when Caponigro stated he was going to shoot out the lights of squad cars that he was going to exit his home imminently.

### ***Initial Dispatch of Officers and Duration of Incident***

Upon initial receipt of the information provided by Deputy Henning, an Attempt To Locate (ATL) was broadcast to City, County and Campus officers. The ATL included Caponigro’s name, the description of his vehicle, last known location and probable destination (his residence). The Eau Claire Communication Center also included information that he was suicidal and that there was a .45 caliber handgun at his residence. After the ATL was broadcast Officer Briski was assigned as the primary officer and Officer Wutschke as the secondary officer. At approximately 2047 hours Officers Wutschke informed Eau Claire Communication Center they were on scene and in contact. Shortly thereafter they advised Caponigro had a gun and requested additional officers. All available officers were sent by the Eau Claire Communication Center to the scene. As additional officers began to arrive at the incident they were acknowledged as being on-scene. At the request of Sergeant Dohms the primary channel was restricted. The Eau Claire Communication Center acknowledged the request and directed all officers not involved in the incident to switch to the secondary channel.

As the incident continued to develop Sergeant Dohms requested the Communication Center find phone numbers for the adjoining units to Caponigro’s residence. They were able to find a phone number for units #1 and 2 and provided those numbers to Sergeant Dohms. It was later found the residents of #2 were not at home at the time of the incident.

A request to stage emergency medical services was called in at approximately 2120 hours. Eau Claire Fire Department personnel staged at Alpine and Prospect Rd to provide this service. At approximately 2152



hours TC Knecht advised he had Caponigro on the phone and that he is “extremely agitated” about the lights illuminating his house. TC Knecht also makes Sergeant Wise aware that Caponigro wishes to speak to him “otherwise he’s coming out blazing.”

**Policy:**

**308.4 COMMUNICATIONS RESPONSIBILITIES**

An Eau Claire Communication Center shall ensure acknowledgement and response of assisting units when an officer requests emergency assistance or when the available information reasonably indicates that the public is threatened with serious injury or death and an immediate law enforcement response is needed.

The Eau Claire Communication Center shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance.
- (b) Confirm the location from which the unit is responding.
- (c) Notify and coordinate outside emergency services (e.g., fire and ambulance).
- (d) Continue to obtain and broadcast information as necessary concerning the response, and monitor the situation until it is stabilized or terminated.
- (e) Control all radio communication during the emergency and coordinate assistance under the direction of the supervisor.

**Findings:**

TC Johnson and TC Kruschke were two of three Eau Claire Communication Telecommunicators assigned to work in the Communication Center when the initial 911 call was received. TC Johnson received the 911 call and talked with the caller for nearly nine minutes obtaining a brief description of the suspect, the caller’s information and updated information on the location of the suspect. TC Johnson communicated the information to TC Kruschke.

TC Kruschke was the telecommunicator assigned to the Eau Claire Police Department during the incident. TC Kruschke recognized two officers were initially needed. After hearing the suspect was holding a weapon TC Kruschke recognized more officers would be needed. As additional officers checked on for their shift or became available they were dispatched to the scene. The primary city radio frequency was restricted and EMS services were requested and sent through the Eau Claire Communication Center.

Throughout the incident TC Johnson, TC Knecht, and TC Dahl maintained control of communications, gave timely updates of information, and assisted in getting responding officers and EMS to the correct incident location. TC Johnson and TC Kruschke followed through with their communication responsibilities and were within the guidelines of this policy.

## *Officer Response*

### *Officer Anthony Briski*

Officer Briski was working his assigned shift of 1630-0300 hours in the West District on July 22, 2017. At approximately 2043 hours Officer Briski was dispatched as the primary officer to a check person call of a suicidal male travelling to 4527 Woodford Court #3. He drove to the scene in non-emergency mode. Officer Briski activated his Mobile Video Recorder (MVR) as the contact with Caponigro began. He arrived near that location at the same time as Officer Wutschke, and the two of them parked near the intersection of Prairie Lane and Woodford Court.

As they approached the given address he observed a male standing near a truck matching the description given by Eau Claire Communication Center. It was decided that Officer Wutschke would initiate contact due to his training in crisis negotiation. Shortly after Officer Wutschke initiated contact the male later identified as Michael Caponigro exclaimed “fuck you, what the fuck are you doing here?” and “this is going to go one of two ways, but I’m going to make you shoot me.” It was then that Caponigro displayed a handgun he had tucked in his front waistband.

### *Officer Benjamin Wutschke*

Officer Wutschke was working his assigned shift of 1630-0300 hours in the South District at the time of this incident. He had been dispatched as the secondary officer to 4527 Woodford Court #3. He responded in non-emergency mode. Officer Wutschke activated his MVR as contact with Caponigro began. His initial observations were the same as Officer Briski’s. As he attempted a dialogue with Caponigro, Caponigro stated “fuck you, get the fuck out of here, back the fuck up”. Caponigro displayed the handgun as described by Officer Briski. It was then Officer Wutschke advised the Eau Claire Communication Center of his observations and requested assistance. After Caponigro retreated into his residence Officers Wutschke set a perimeter around the house the best they could, and Officer Briski can be heard ordering a neighbor to stay inside their home.

A total of seventeen officers and supervisors responded after Officer Wutschke’s call for assistance. The following sections outline the manner of their response and their routes taken.

### *Officer Jacob Olson*

Officer Olson was working his assigned shift of 1030-2100 hours the West District. At the time for assistance was called he was involved in a case where someone was possibly in need of medical attention. From the tone of Officer Wutschke’s voice it was readily apparent he was in need of help so he cleared this case. He responded along with several other officers at 2047 hours when Officer Wutschke called for assistance on Woodford Court. Prior to responding to Woodford Court he retrieved his tactical gear from the Eau Claire Police Department from 400 Platt Street. His vehicle’s lights and siren were activated as well as the vehicle’s MVR. After retrieving his gear he took the following route to the scene:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup> Street

- West on Truax
- North on Jeffers

He turned his lights and siren off at Truax and Jeffers then re-engaged them at Jeffers and State Highway 124. He again turned them off once he was through the intersection. Once on scene his audio goes out of range as he made his way on foot to the incident. He drove with due regard to the scene.

### ***Officer Michael Cullen***

Officer Michael Cullen was working his assigned shift of 1630-0300 hours in the South District. He responded from Eau Claire Police Department with his emergency lights, siren, and MVR activated. The route he drove is as follows:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Hewitt
- North on Jeffers

Officer Cullen arrives on scene, and once he does, he loads a squad shotgun with less-lethal munitions as Officer Palmer observes and verifies. The MVR fades as he goes out of range. He drove with due regard to the scene.

### ***Officer Mitchell Hunsley***

Officer Mitchell Hunsley was working his assigned shift of 1630-0300 hours in the North District. He responded to the scene from the downtown area, and once he crossed the Madison Street Bridge he took the following route:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

Officer Hunsley's emergency lights, siren, and MVR were activated during his response and he drove with due regard along his route.

### ***Officer Tyler Larsen***

Officer Tyler Larsen was working his assigned shift of 1630-0300 hours in North District. He responded from Eau Claire Police Department along the following route:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>

- West on Truax
- North on Jeffers

Officer Larsen's emergency lights, siren, and MVR were activated. He operated his squad car with due regard.

### ***Officer Mark Vang***

Officer Mark Vang was working an overtime detail for Country Jam near the intersection of Quarry Rd and Mt. Washington Ave. He heard over the radio that there was an armed subject in possession of a gun. He asked for and was granted permission to leave his post to go to the incident at Woodford Court. He drove to Eau Claire Police Department to retrieve his tactical gear and made his way to the scene. There is no video recording of his response as he was driving an unmarked squad car that is not outfitted with this equipment. He responded in emergency mode to Eau Claire Police Department from Mt. Washington/ Quarry and then again from Eau Claire Police Department to the scene on Woodford.

### ***Officer Marcus Walden***

Officer Marcus Walden was working his assigned shift of 1030-2100 hours in to the North District. He was writing a report when he heard the call for assistance. He responded from Eau Claire Police Department along the following route:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

Once on scene he collected the tactical gear he would need and took a position alongside Officer Olson to act as his observer. During his response Officer Walden drove with due regard and had his emergency lights, siren, and MVR activated.

### ***Officer Michael McClain***

Officer McClain was working an overtime traffic detail near the Country Jam grounds when he was made aware of this situation. There was a "call out" for the Tactical Response Team, of which he is a member. He was directed to report to the Command Post. He first drove to Eau Claire Police Department to ready himself for his role in the tactical team. There is no video of his response nor is there any indication he drove to the scene in emergency mode.

### ***Officer Jason Ruppert***

Officer Jason Ruppert was just beginning his assigned shift of 2045-0715 hours on the evening of July 22, 2017 when he became aware of the situation on Woodford Court. He responded from Eau Claire Police Department along the following route:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

Once on scene he parked on Prairie La and Jeffers Rd. There he met with other officers. He drove with due regard and had his emergency lights, siren, and MVR activated. He shut his lights and siren off at Jeffers and STH 124 and obeyed applicable traffic laws.

***Officer Ellen Schroeder***

Officer Ellen Schroeder was working her assigned shift of 1630-0300 hours in the West District. At the time Officer Wutschke asked for assistance she was at an assigned call. Upon hearing this call she cleared from her case and responded according to the following route:

- Vine and 3<sup>rd</sup> Streets to northbound 3<sup>rd</sup> Street
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

Her vehicle's emergency lights, siren and MVR were activated at the outset of her response. Near the intersection of Jeffers Rd and Maleda Dr she deactivates the lights and siren for the remainder of her response. Her speed was in excess of the posted limit but given the circumstances she was still operating with due regard.

***Officer Jacob Hoople***

Officer Jacob Hoople responded from Eau Claire Police Department at the time of the call for assistance. He was working his assigned shift of 2045-0715 hours when the call for assistance came about. His vehicle's emergency equipment and MVR were activated south of the Oxford and Madison Street intersection. He followed the subsequent route:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

His emergency equipment remained active with the exception off his turning of his vehicle's siren at Truax Blvd and 6<sup>th</sup> St. This was reasonable based on the facts known at the time.

***Officer Riley McLennan***

Officer Riley McLennan was working her assigned shift of 1030-2100 hours in the South District. She responded from the City Shops upon hearing Officer Wutschke's call for assistance. She drove the following route to the scene:

- South on Forest
- West on E Madison
- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- North on Old Wells
- West onto STH 124
- North on Jeffers

Officer McLennan had her vehicle's emergency lights, siren and MVR activated. She drove with due regard to the scene.

***Officer Robert Schreier***

Officer Schreier was in briefing prior to the start of his assigned shift of 2045-0715 hours when he heard of the incident on Woodford Court. He responded from Eau Claire Police Department along the following route:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

Once he arrived on scene he took a position to the rear of a gray Chevrolet Equinox, which in fact is [REDACTED] vehicle. Officer Schreier had his vehicle's emergency lights, siren, and MVR activated. He drove with due regard to the scene.

***Officer Abram Palmer***

Officer Abram Palmer was also in briefing when he heard of the need for assistance. He travelled the same route as Officer Schreier, directly behind Officer Schreier. He operated with his vehicle's emergency lights and MVR on but not the vehicle's siren. He operated his vehicle with due regard to the scene.

***Sergeant Brandon Dohms***

Sergeant Brandon Dohms was working his assigned shift of 2045-0715 hours when the call for assistance was called. Sergeant Dohms travelled along the following route:

- North on Oxford

- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers

Sergeant Dohm's emergency lights, siren, and MVR were activated. Sergeant Dohms drove with due regard.

***Sergeant Aaron Jensen***

Sergeant Aaron Jensen was beginning his shift of 1945-0530 hours. Just as he was about to begin a shift briefing he heard Officer Wutschke call for help. Sergeant Jensen cleared briefing, placed a phone call to the Tactical Team Commander and left for the scene. He took the following route to Woodford Court:

- North on Oxford
- West on Platt
- North on 3<sup>rd</sup>
- West on Truax
- North on Jeffers.

Sergeant Jensen drove to the scene with his emergency lights, siren and MVR activated. Sergeant Jensen drove with due regard.

In all the MVR reviewed it was found that upon arrival that the audio for all systems would fade as the officers made their way to the scene.

***Policy/Procedure***

**308.2 RESPONSE TO CALLS**

When possible, officers responding to any call shall proceed immediately. Officers responding to an emergency as an emergency response shall continuously operate emergency lighting equipment and shall sound the siren as reasonably necessary (Wis. Stat. § 346.03).

**308.3 RESPONSIBILITIES OF THE RESPONDING OFFICER**

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

During a call involving an emergency response, after giving a visual and audible siren or exhaust whistle, officer may (Wis. Stat. § 346.03):

- (a) Disregard regulations governing stopping, parking or standing when using a red or red and blue flashing, oscillating or rotating light.
- (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

- (c) Exceed any speed limits provided this does not endanger life or property.
- (d) Disregard regulations governing direction of movement or turning in specified directions.

The decision to continue as an emergency response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify the Communication Center. An officer shall also discontinue an emergency response when directed by a supervisor.

The first officer arriving at an emergency response scene should, whenever possible, determine whether to increase or reduce the level of the response and notify the Communications Center of their determination. Any subsequent change in the appropriate response level should be communicated to the Communications Center by the officer in charge of the scene unless a supervisor assumes this responsibility.

### **308.3.1 EMERGENCY RESPONSE SPECIAL CONDITIONS**

While performing certain emergency response tasks, the use of emergency lights or sirens may increase the danger to the responding officers or the public. In the following circumstances, officers may exceed the speed limit without giving a visual and audible signal if (Wis. Stat. § 346.03(4)):

- (a) The officer is obtaining evidence of a speed violation.
- (b) The officer is responding to a call which the officer reasonably believes involves a felony in progress and the officer reasonably believes that knowledge of the officer's presence may:
  1. Endanger the safety of a victim or other person, or
  2. Cause the suspected violator to evade apprehension, or
  3. Cause the suspected violator to destroy evidence of a suspected felony or may otherwise result in the loss of evidence of a suspected felony, or
  4. Cause the suspected violator to cease the commission of a suspected felony before the officer obtains sufficient evidence to establish grounds for arrest.

Any emergency response without the use of emergency lights and siren shall be conducted with due regard for the safety of the public and property and the recognition that such a response may not provide an exemption from the vehicle laws (Wis. Stat. § 346.03(5)).

Any emergency response without the use of lights and siren shall cease if the circumstances no longer warrant such a response.

### **400.1.1 FUNCTION (PATROL)**

Officers will generally patrol in clearly marked vehicles. They will patrol assigned jurisdictional areas of Eau Claire, identify community needs, provide support and assistance to the community, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours a day seven days a week.

Patrol will generally provide services within the limits of available resources. These include:



- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and crashes, the maintenance of public order and the discovery of hazardous situations or conditions.
- (b) Crime prevention activities.
- (c) Calls for service, both routine and emergency.
- (d) Investigation of both criminal and non-criminal acts.
- (e) The apprehension of criminal offenders
- (f) Problem-solving activities, such as citizen assists and individual citizen contacts of a positive nature.
- (g) The sharing of information between the patrol and other divisions within the Department, as well as other government agencies.
- (h) The application of resources to specific problems or situations within the community that may be improved or resolved by evidence based policing strategies.
- (i) Traffic direction and control.
- (j) Response to disasters, civic unrest and natural emergencies.

#### **422.1 PURPOSE AND SCOPE (MOBILE VIDEO RECORDING SYSTEM)**

The Eau Claire Police Department has equipped marked patrol cars with Mobile Video Recording (MVR) systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

#### **422.3 OFFICER RESPONSIBILITIES (MOBILE VIDEO RECORDING SYSTEM)**

Prior to going into service, each officer will properly equip him/herself to record audio in the field. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. In the event an officer works at a remote location and reports in only periodically, additional recording media may be issued. Only Eau Claire Police Department identified and labeled media with tracking numbers is to be used.

At the start of each shift, officers should test the MVR system's operation in accordance with manufacturer specifications and department operating procedures and training.

System documentation is accomplished by the officer properly logging in at the start of their shift and properly logging out at the end of their shift. If the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

#### **422.4 REQUIRED ACTIVATION OF THE MVR**

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MVR. The MVR system should be activated in any of the following situations:

- All field contacts involving actual or potential criminal conduct within video or audio range:
  - Traffic Stops (to include, but not limited to, traffic violations, stranded motorists assistance and all crime interdiction stops)
  - Priority responses
  - Vehicle pursuits
  - Suspicious vehicles
  - Arrests
  - Vehicle searches
  - Physical or verbal confrontations or use of force
  - Pedestrian checks
  - OWI investigations including field sobriety tests
  - Consensual encounters
  - Crimes in progress
  - Responding to an in progress call
- All assigned cases and officer initiated cases as you arrive on scene
- All self-initiated activity in which an officer would normally notify the Communications Center
- Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect
  - Domestic abuse calls
  - Disturbance of peace calls
  - Offenses involving violence or weapons
- Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
- Any other circumstance where the officer believes that a recording of an incident would be appropriate.
- Failure to comply with the required activations of the MVR may result in discipline.

#### **422.8 SYSTEM OPERATIONAL STANDARDS (MVR)**

- (a) MVR system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record for 30 seconds, prior to an event.
- (c) The MVR system may not be configured to record audio data occurring prior to activation.
- (d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer's transmitter should be activated at a scene to minimize interference or noise from other MVR transmitters.
- (e) Officers using digital transmitters that are synchronized to their individual MVR shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.
- (f) Officer shall not erase, alter, reuse, modify or tamper with MVR recordings. Only MVR technician or other authorized designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.

- (g) To prevent damage, original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MVR technician.

Wisconsin Law identifies rules for vehicle operation when operating in emergency mode. Wis. Stat. § 346.03 states that officers responding to an emergency as an emergency response shall continuously operate emergency lighting equipment and shall sound the siren as reasonably necessary. It further states that after giving a visual and audible siren, officers may exceed any speed limits provided this does not endanger life or property. Wis. Stat. § 346.03(4) provides special circumstances regarding emergency responses and lists the circumstances when it may be appropriate for officers to exceed the speed limit without the use of a visual and audible signal. Among the reasons is when the use of emergency lights or siren would endanger the safety of a victim or other person.

### ***Findings***

All responding officers listed above had their Mobile Video Recording (MVR) devices activated. The only exceptions being Officers McClain and Vang whose squad cars were not equipped with MVR's. The in-squad audio recordings can be heard during the response phase for each officer. Once at the scene the audio for responding officers goes out of range as they make their way on foot to the scene. This is due to the distance travelled and the limitations of audio recordings when separated by distance between the officer and their squad car. The findings of this review show that responding officers were in compliance in regards to the activation of the Mobile Video Recording systems.

As noted earlier in the Response section the vast majority of responding officers drove with their emergency equipment (emergency lights and siren) activated. As a review, the few exceptions will be listed here. Officer Ellen Schroeder deactivates her squad's siren at Truax Blvd and Jeffers Rd and deactivates the squad's emergency lights near the intersection of Jeffers Rd near the Maleda Dr. According to the squad's MVR data her speed was over the 30 mph posted limit by 10-15 mph. Officer Schroeder drove in a controlled manner. Given the circumstances to which she and other officers were responding her driving was reasonable.

Officer Jacob Hoople deactivated his squad's siren on Truax Blvd at 6<sup>th</sup> St. He was travelling amongst several other squad cars, and although he was not operating with an audible signal, several squad cars in his immediate area were. Officer Abram Palmer did not activate his siren during his response. Officer Palmer was travelling amongst several squad cars which were giving an audible signal. From the video, the fact that both officers were not utilizing the siren did not put the public or fellow officers at risk.

### ***Contact at 4527 Woodford Court #3***

#### ***Patrol Response and Establishment of Incident Command***

Officers Wutschke and Briski responded to 4527 Woodford Court #3 to make contact with Michael Caponigro. His girlfriend [REDACTED] spoke with Deputy Henning near the Country Jam grounds after she left Caponigro's vehicle abruptly after he made suicidal and homicidal comments. Upon arrival, Officers Wutschke and Briski contacted Michael Caponigro who immediately stated "this was going to go one of two ways, but I'm going to make you shoot me." He also displayed to them a handgun tucked along his

front waistline. Shortly thereafter he went into his residence. Officer Wutschke requested assistance of available officers due to the exigent nature of the incident. The Communication Center then dispatched all available units to the scene. Officer Wutschke repositioned to a grassy area to the south of 4526 Woodford Court while Officer Briski remained along the north side of 4527 Woodford Court in order to establish and maintain a hasty perimeter until additional officers arrived.

Several officers along with Sergeant Dohms were able to respond rapidly to the scene. At the same time of his departure to the scene Sergeant Jensen told Sergeant Dohms that he (Jensen) would be Incident Command. Sergeant Dohms directed officers on scene to deploy less lethal munitions if possible. Sergeant Dohms had taken a position with other officers behind a Chevrolet Equinox parked on Van Es Parkway. As darkness set in he directed Officer Ruppert to reposition his squad and direct his spotlight to the front of the house in order to provide illumination. A second vehicle to the rear of the home provided illumination to that side of the residence. Illumination of the residence's exterior was important so officers could observe Caponigro's actions and conceal the officer's exact positioning.

Sergeant Jensen, upon hearing the case on Woodford Court turned into a "man with a gun" call, cleared the shift briefing and sent these officers to Woodford Court. Based upon the facts known to him at that moment Sergeant Jensen determined this situation to be a barricaded person situation. As such he contacted Sergeant Wise who was working the Country Jam traffic detail. Sergeant Wise is the Eau Claire Police Department Crisis Negotiations Team Coordinator. Sergeant Jensen requested and began organizing resources such as emergency medical services, and the department's Tactical Response Team, and Crisis Negotiators.

Sergeant Jensen established a Command Post near the scene at the intersection of Woodford Ct and Prairie La. Once on scene he developed a plan with Sergeant Dohms to deploy less lethal munitions in the event Caponigro exited the residence and refused to comply with orders. It should be noted that Sergeant Dohms was already in the process of establishing an arrest team. Once this plan was developed, Sergeant Jensen arranged for additional resources to include staffing the perimeter. He also arranged through mutual aid for neighboring agencies to respond to emergency calls in our jurisdiction. These agencies included the Eau Claire County Sheriff's Department, Altoona Police Department, UW Eau Claire Police Department, Lake Hallie Police Department and the Chippewa County Sheriff's Department.

As the events continued to unfold Sergeant Jensen continued to update perimeter units of threats from Caponigro that he could see and threatened to shoot officers at the scene. He also facilitated in conjunction with the Communication Center and on-scene units the evacuation of the residents of 4527 #1.

### ***Policy/Procedure***

#### **410.1 HOSTAGES AND BARRICADED PERSONS**

**Barricade Situation-** An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a deadly weapon

**410.2 Policy-** It is the policy of the Eau Claire Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the release of hostages, apprehending offenders and securing available evidence.

**410.3 Supervisor Responsibilities-** upon being notified that a hostage or barricaded situation exists, a supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes a TRT response if appropriate and apprising the TRT Commander of the circumstances. In addition, the following options, listed here in no particular order:

- Ensure injured persons are evacuated and treated by medical personnel
- Ensure the completion of necessary first responder responsibilities or assignments
- Request Crisis negotiators, specialized unit, additional personnel, resources, or equipment as necessary
- Establish a Command Post location as resources and circumstances permit
- Designate assistants who can help with intelligence information and documentation of the incident
- Consider contacting utility and communication providers when restricting such services (e.g. restricting electric power, gas, and telephone service).
- Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Communication Center
- Identify a media staging area outside the outer perimeter and have the media representative provide media access in accordance with the News Media Relations Policy
- Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration
- Debrief personnel and review documentation as appropriate

### ***Findings***

At an early stage, Sergeant Jensen established with Sergeant Dohms that he (Jensen) would assume the role of Incident Commander. He drove to the scene and established a Command Post and a staging area for Fire Department/EMS personnel. He requested mutual aid from local law enforcement agencies to cover any emergent cases had they occurred and collaborated with Sergeant Dohms for the evacuation of residents in homes that may have been jeopardized by Caponigro's actions. He established an area for media and neighborhood observers away from the scene.

Sergeant Jensen relayed information he learned through observation and communication with Sergeant Wise as to the actions of Caponigro. As Incident Commander, Sergeant Jensen immediately activated the Crisis Negotiations Team and established Sergeant Wise as Commander of the negotiations. Sergeant Jensen activated the Tactical Response Team and established Sergeant Pieper as Tactical Commander. This action plan was based on the threat Caponigro posed to the community and officers. Furthermore, based on Caponigro's actions of that evening probable cause for Reckless Endangerment of Safety, Intoxicated Use of a Firearm, Threats to Law Enforcement, and Disorderly Conduct were met.

Based on the threats Caponigro made against [REDACTED] and others, Eau Claire Police personnel had a responsibility to take Caponigro into custody for the protection of the community. Officers could not withdraw from this situation.

It is the conclusion of this review that the actions of Sergeant Jensen conform to the above policy regarding Hostage and Barricade situations.

### ***Crisis Negotiation***

During the evening of July 22, 2017 Sergeant Andy Wise was assigned as the supervisor for the traffic detail near the Country Jam grounds. Upon hearing of the situation on Woodford Court he began the call-in procedure for the Crisis Negotiation Team. He assembled a team consisting of Officers Johnson, Porn and Coit and Special Agent David Fitzgerald from the FBI who acted as an advisor. Officers Johnson, Porn, and Coit acted as coaches and gathered intelligence.

Prior to making contact with Caponigro, Sergeant Wise gathered the background he could regarding the situation as it was occurring and biographical information pertaining to Caponigro. The first of many phone conversations with Caponigro began at approximately 2155 hours. The last telephone conversation with Caponigro as part of the attempted negotiations ended at 2343 hours.

The primary goal of the Crisis Negotiations, and Sergeant Wise as the lead negotiator, was to de-escalate the situation and facilitate the peaceful surrender of Caponigro. During the attempted negotiations Sergeant Wise made the following statements to Caponigro to demonstrate empathy, build rapport, and facilitate a peaceful conclusion to the incident:

- “Are you injured.”
- “Is anyone else injured.”
- “Tell me about your day.”
- “What is bothering you?”
- “I care.”
- “I care about you.”
- Discussed shared experience as City of Eau Claire employees.
- “You need to be careful for your safety.”
- Discussed the importance of not leaving the residence holding a weapon.
- “What led to your day going sour?”
- “I want you to be safe.”
- Discussed both were at Country Jam that day.
- Attempted to discuss Caponigro’s relationship with his girlfriend.

Caponigro’s demeanor made it difficult for this de-escalation strategy to be successful. Sergeant Wise held 15 separate telephone conversations with Caponigro as part of the formal crisis de-escalation strategy. Caponigro was belligerent, profane, and would not engage in negotiations. Caponigro hung up mid-conversation during each of these 15 conversations. Sergeant Wise made an additional seven telephone calls with Caponigro in an attempt to re-establish dialogue, that were unsuccessful. In coordination with

the Tactical Response Team, during these breaks in negotiations, contact was attempted with Caponigro through the ARV's public address system.

During their many conversations Caponigro gave Sergeant Wise cause for concern in regards to the safety of the officers on scene. At various times he spoke of the firearms at his disposal, threatened to shoot out the lights of squad cars, and claimed to have an officer "in his sights".

Sergeant Wise describes Caponigro's demeanor as "angry and agitated". Caponigro made continuous demands to have the officers extinguish the lights focused on his home. After he threatened to leave on his motorcycle "with guns blazing" the ARV was moved from his lawn to a position to block his garage. Sergeant Wise states the only resolution Caponigro seemed interested in was for officers to leave him alone. Below are excerpts from the conversations Sergeant Wise had with Caponigro:

- Sergeant Wise, "are you injured in any way?" Caponigro, "No I'm not, but somebody's gonna be injured"... "I'm going out with a glory".
- Sergeant Wise, "We don't want any... officers to get hurt either." Caponigro, "Well, somebody's gonna get hurt if you don't shut them fucking lights off."
- Caponigro, "get them lights off my fucking front door... If you don't I'm gonna start shooting"
- Caponigro, "But them lights are still on and I'm coming out and I'm gonna blaze and someone's gonna get hurt."
- Caponigro, "I'm telling you right now. You take that fucking light off my fucking front door... I'm gonna open that fucking curtain, and I've got a shotgun right here. I'm gonna start fucking blasting out that door."
- Caponigro, "Things are going to get bad, you don't listen to me. I asked you a couple of times to get the lights off my front door, get that and then you pulled this big machine in front of my yard. Things are going to get bad. Somebody is going to get hurt."
- "You are not going to talk me out of this."

As noted above, Caponigro made numerous references to wanting lights directed at his residence extinguished. Lights from several marked patrol vehicles illuminated the front of Caponigro's residence to provide visibility for the officers attempting to contain the situation. Extinguishing these lights would have put officers tasked with containing the situation at a tactical disadvantage and would have threatened community safety.

## **405.6 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES**

The CNT has been established to provide skilled verbal communicators, who may be utilized to attempt to de-escalate and affect surrender in critical situations where suspects have taken hostages, barricaded themselves or have suicidal tendencies.

### **405.6.2 TRAINING OF NEGOTIATORS**

Those officers selected as members of the CNT should attend a department-approved basic negotiators course prior to deployment in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the team shall be conducted by the team supervisor. Performance and efficiency levels established by the team supervisor will be met and maintained by all team members. Any member of the CNT who performs or functions at a level less than satisfactory shall be subject to dismissal from the CNT.

### ***Findings***

During the dialogue with Caponigro, negotiators followed practices of having a designated contact officer (Sergeant Wise) and assisting officers (Johnson, Coit, and Special Agent Fitzgerald). The Crisis Negotiation Team persisted in their efforts to bring about a peaceful resolution. Their efforts were met by Caponigro with hostility, threats toward the public and officers, and refusals to comply with their lawful commands. The fact that the negotiations failed is not a reflection on the team's efforts, rather a failure of Caponigro to cooperate.

### **405.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY**

The Policy Manual sections pertaining to the Tactical Response Team are divided into Administrative and Operational Policy and Procedures. The situations that necessitate the need for such a law enforcement response vary greatly from incident to incident, and because such events often demand on-scene evaluation, the Operational Policy outlined in this section serves as a guideline to department personnel, allowing for appropriate on-scene evaluation. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

### ***Tactical Response Team***

At approximately 2110 hours on July 22, 2017 Sergeant Mark Pieper fielded a phone call from Sergeant Dohms in regards to the developing situation on Woodford Court. He spoke with both Sergeants Jensen and Dohms on speaker as they began to explain the behavior of Caponigro. It was relayed to Sergeant Pieper that Tactical Response Team Commander Sergeant Eliopoulos was unavailable. Sergeant Pieper was provided a full briefing on the situation. As the primary Team Leader, Sergeant Pieper would act as the Tactical Commander for this incident.

Sergeants Jensen and Dohms had initially placed the call to Sergeant Pieper to request the ARV based upon the aforementioned threats. It was also determined through this conversation that the Tactical Response team would be activated. Sergeant Pieper consulted with and received permission from Lieutenant Derek Thomas to page/activate the Tactical Response Team. Lieutenant Thomas was serving as an acting Deputy Chief. The activation occurred at approximately 2145 hours. Sergeant Pieper's initial call went to team leaders Sergeant Ben Frederick, Sergeant Joshua O'Malley, and Officer Kyle Anderson.



Sergeant Pieper initially responded to the Command Post, and from there drove to retrieve the TRT Truck. The "TRT Truck" was utilized as the "Tactical Command Post." Once he arrived back on scene he began to formulate an operational plan. The items he stated he took into consideration included location, size of the scene, available personnel, and needs for evacuation. As tactical personnel began to arrive they initially checked in with Incident Command (Sergeant Jensen) as instructed, and from there were directed to the Tactical Command Post for assignment. His first priority was to replace patrol officers with tactical officers on the inner perimeter.

As tactical personnel were being assigned, Officer Ellen Schroeder took notes for Sergeant Pieper, documenting scene activity on a notepad. As information was relayed to him about the threats Caponigro was making, stop sticks were deployed in front of the garage. Sergeant Pieper also ordered the ARV to be moved in a position to block egress from the garage. These actions were taken after Caponigro stated he would flee on his motorcycle and go out "in a blaze of glory." This information furthered the belief that Caponigro meant harm to the public and officers.

Sergeant Henning and Officer Olson were deployed as a long rifle over watch team. They took a position to the south and east of 4526 Woodford Court which placed them across the street from Caponigro's residence. It was determined Officer Olson would observe the front window and front door of Caponigro's residence. It was determined Sergeant Henning would cover the front door, a portion of the front window, and a portion of the garage. The front of the home was illuminated by the lights from the ARV and other police vehicles. The distance from where Sergeant Henning and Officer Olson were positioned and the front of the home, was approximately 180 feet.

Noting insufficient personnel along the east side of Caponigro's residence, Sergeant Pieper requested the assistance of the Eau Claire County Regional SWAT team through the team commander, Sergeant Mark Provost of the Eau Claire County Sheriff's Office. This request was granted in the form of the Regional Team's armored vehicle and team personnel. Sergeant Pieper also requested the Regional SWAT to devise a plan for less lethal and chemical agent deployment. It was around this time Caponigro stated to the negotiation team that he had an officer in his sights and had the capability to shoot that officer. It was clear Caponigro presented a viable threat to the community and police officers.

After considering the risk posed by Caponigro and his refusal to cooperate, Sergeant Pieper requested ECSO Regional SWAT to develop a plan for deployment of chemical agents. This decision and subsequent action are often referred to as "tactical progressions" as instructed in National Tactical Officer Association (NTOA) sanctioned training. Based on training held jointly with ECSO Regional SWAT, administrative meetings with ECSO personnel, and professional affiliations, Sergeant Pieper knew ECSO Regional SWAT functioned within the same guidelines for tactical planning as the Eau Claire Police Department.

Chemical agents are typically delivered by a team of tactical officers from an ARV. The ARV provides ballistic protection for this team as they approach the barricaded suspect and deliver this less lethal force option. One team member drives the ARV. A second team member is designated to operate the integrated chemical munitions launcher. The chemical agents are delivered to the interior of the residence through a ported window or doorway. This may require the window or door to be damaged. A third team member provides over watch for the three person team.

Menomonie Police Department Officer Aaron Bergh was part of the ECSO Regional SWAT designated chemical agent team. Officer Bergh drove the ARV. Bloomer Police Officer John Beyer was designated to operate the chemical launcher. UWEC Police Officer Reschke was assigned to provide over watch for the chemical agent deployment.

ECSO Regional SWAT Officers Bergh, Beyer, and Reschke met with ECPD Sergeants Pieper and Jensen to develop the chemical agent deployment plan. Officer Bergh was provided a hand drawn diagram of Caponigro's residence. This diagram was drawn by [REDACTED] after he was removed from the residence by Caponigro. Prior to completing the diagram, [REDACTED] was told it was needed for emergency planning purposes. This diagram is pictured below in Figure 3.

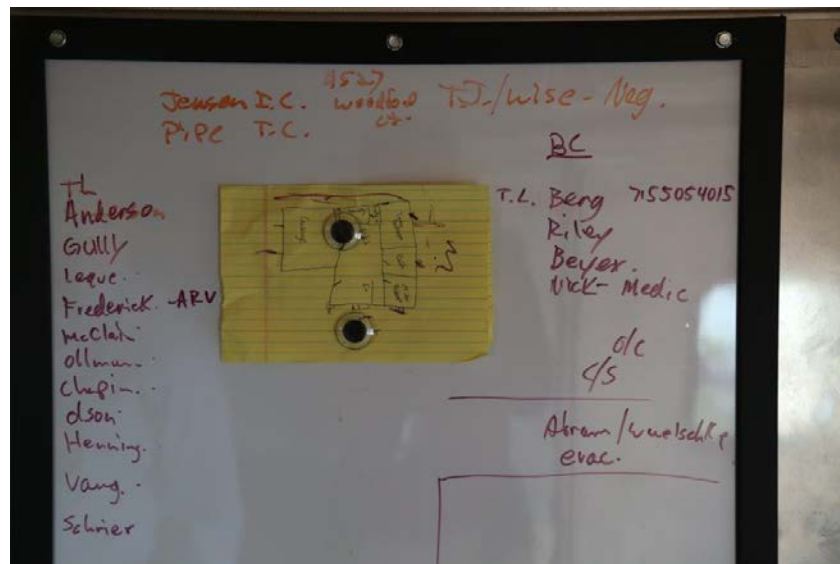


Figure 3.

ECSO Regional SWAT utilizes gas vapor oleoresin capsicum (OC) and chlorobenzylidenemalononitrile (CS) for chemical agent deployment, a best practice outlined by NTOA. The chemical agent plan was to approach the rear of Caponigro's residence, away from his attention, and deploy these agents to several designated rooms. A listing of these rooms and the corresponding purpose are as follows:

- Bathroom - This room has a water source which can be used to defeat the effects of the chemical agents.

- Bedrooms – ██████████ told officers there were firearms stored in these rooms. Additionally, officers did not have a clear line of sight to these rooms and could not directly communicate with Caponigro.

A Google Earth Street View photograph of Caponigro’s residence, prior to this incident is pictured below in Figure 4.



Figure 4.

It is important to note a comparison between the diagram provided by ██████████ and the photograph in Figure 4. Based on ██████████ description of the residence it was reasonable for officers to conclude the double window situated between the two small fences to be associated with a bedroom within Caponigro’s residence.

As the ECSO Regional SWAT readied to deploy the chemical agents Sergeant Pieper was informed by Sergeant Wise that Caponigro threatened to shoot at the lights illuminating his residence’s exterior. Sergeant Pieper knew the described area to be near the location of the where Eau Claire Police Tactical Team’s officers were providing over watch. Sergeant Wise advised Sergeant Pieper that Caponigro gave a two minute deadline and continued to be agitated. Caponigro threatened that if officers did not leave in two minutes he was going to leave the residence and begin shooting. He also learned that Caponigro was seen through a window with a sling over one shoulder, presumably a sling to a long gun. Sergeant Pieper is then informed Caponigro is seen with a long gun and that he is breaking windows of the residence.

Sergeant Pieper directed the deployment of chemical agents to mitigate the active threat posed by Michael Caponigro’s actions and statements. Relevant factors describing the threat include:

- Caponigro’s possession of a firearm.

- Caponigro's threatening behavior, most notably by displaying multiple firearms.
- Repeated statements indicating intended harm towards others.
- Caponigro's stating his intent to leave the residence where the threat could not be contained.
- This threat was compounded by Caponigro's "countdown."

Approximately two minutes after learning of the preceding information Sergeant Pieper advised ECSO Regional SWAT to commence with the chemical agent deployment. ECSO Regional SWAT attempted to place the chemical agents in the following areas of Caponigro's residence:

- Rooms with a water source.
- The bedrooms, where it was believed additional firearms were stored.
- The rear of the residence where perimeter and over watch officers had limited visibility.

It would be found later that the chemical agents were inadvertently deployed into an adjacent apartment unit.

Within moments of the chemical agent deployment, Sergeant Pieper was told Caponigro was at the front window with a shotgun. Then a radio transmission was broadcast indicating an over watch officer had shot once. The shot was believed to have struck Caponigro and he could no longer be seen by officers. Sergeant Henning made his way to the Command Post where he confirmed with Sergeant Pieper that it was he who had shot.

The operations shifted to determining Caponigro's location within the residence. From a position outside the residence, Officer Anderson had sight of what he believed was Caponigro's foot. A pole camera was deployed to enhance their capabilities to observe Caponigro. They were able to see that he was not moving as he lay in the kitchen/living area of the home. Sergeant Pieper ordered the tactical team enter the home, confirm Caponigro's status, and search for other persons. After this was accomplished the Tactical Response Team was withdrawn from the residence and returned to Eau Claire Police Department.

### ***Deployment of Armored Rescue Vehicle***

On July 22, 2017 at about 2130 hours Sergeant Ben Frederick received a call from Sergeant Pieper regarding this incident. Sergeant Pieper asked Sergeant Frederick to deploy the ARV to the scene. Sergeant Pieper had previously spoken with Lieutenant Derek Thomas and received permission to deploy the ARV. Lieutenant Thomas was serving as an acting Deputy Chief.

Sergeant Frederick drove and Officer Timothy Aldrich acted as the navigator. Sergeant Frederick initially parked the ARV in the front yard of Caponigro's residence to provide cover for officers along Van Es Parkway. From the driver seat Sergeant Frederick could see Caponigro moving about within the home.

This made him suspicious that Caponigro was attempting to gain a vantage point of the area and officers. Sergeant Frederick also saw Caponigro with a sling over his shoulder, likely a sling for a long gun. At this time he positioned the vehicle's spotlight to the front of the home to disrupt Caponigro's view of the officers to the front of his home. This light also improved visibility for the officers outside.

Sergeant Frederick became aware of Caponigro's threats to flee on his motorcycle and engage officers with a firearm. Hearing this, Sergeant Frederick repositioned the ARV to inhibit this from happening. After it was determined that chemical agents were going to be deployed Sergeant Frederick gave several "loud hails" to Caponigro as a command to peacefully surrender. The commands included the verbiage "Occupants inside 4-5-2-7 Woodford Court #3 come to the front door with your arms raised and your hands empty, do it now". Sergeant Frederick gave these commands to Caponigro for approximately three to five minutes. Upon hearing from perimeter units that Caponigro was armed with a long gun Sergeant Frederick changed his command to "Occupant inside needs to drop that gun, comply, come out with your arms raised and your hands empty". Sergeant Frederick gave this command for approximately one minute.

Caponigro did not comply with these commands and Sergeant Fredrick observed him attempt to break the glass of the front window with the butt of his long gun. It was shortly after this that Sergeant Frederick heard a "pretty muffled" gunshot and glass break outward. It was also at this point he heard an officer (later determined to be Officer Nate Ollmann) say he had been struck by glass. It was Sergeant Frederick's belief Caponigro had shot from the interior of the residence. It was then Sergeant Frederick believed a round was fired into Caponigro's apartment and simultaneously he heard that an over watch officer had shot. He recalled these events happening "all within a few seconds".

## **405.1 PURPOSE AND SCOPE**

The Tactical Response Team (TRT) is comprised of two specialized teams: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appears to be necessary.

### **405.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY**

The Policy Manual sections pertaining to the Tactical Response Team are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a law enforcement response vary greatly from incident to incident, and because such events often demand on-scene evaluation, the Operational Policy outlined in this section serves as a guideline to department personnel, allowing for appropriate on-scene decision-making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

### **405.1.2 TRT TEAM DEFINED**

**TRT team** - A designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex or unusual that they may exceed the capabilities of first responders or investigative units. This includes, but is not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high- risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

### **405.2 POLICY**

It is the policy of this department to maintain a TRT team and to provide the equipment, manpower and training necessary to maintain a TRT team. The TRT team should develop sufficient resources to perform three basic operational functions:

- (a) Command and control
- (b) Containment
- (c) Entry/apprehension/rescue

It is understood that it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

#### **405.2.1 POLICY CONSIDERATIONS**

A needs assessment should be conducted to determine the type and extent of TRT missions and operations that are appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the TRT commander or the authorized designee.

#### **405.2.2 ORGANIZATIONAL PROCEDURES**

This department shall develop a separate written set of organizational procedures that should address, at minimum, the following:

- (a) Locally identified specific missions the team is capable of performing
- (b) Team organization and function
- (c) Personnel selection and retention criteria
- (d) Training and required competencies
- (e) Procedures for activation and deployment
- (f) Command and control issues, including a clearly defined command structure

- (g) Multi-agency response
- (h) Extra jurisdictional response
- (i) Specialized functions and supporting resources

### **405.2.3 OPERATIONAL PROCEDURES**

This department shall develop a separate written set of operational procedures, in accordance with its level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association's Suggested SWAT Best Practices. Because such procedures are specific to TRT members and will outline tactical and officer safety issues, they are classified as confidential security data and are not included within this policy. The operational procedures should include, at minimum:

- (a) Personnel responsible for developing an operational or tactical plan should be designated prior to, and/or during TRT operations (time permitting).
  - 1. All TRT team members should have an understanding of operational planning.
  - 2. TRT team training should consider planning for both spontaneous and planned events.
  - 3. TRT teams should incorporate medical emergency contingency planning as part of the TRT operational plan.
- (b) Plans for mission briefings should be conducted prior to an operation, unless Circumstances require immediate deployment.
  - 1. When reasonably possible, briefings should include the specialized units and supporting resources.
- (c) Protocols for a sustained operation should be developed. These may include relief, rotation of personnel and augmentation of resources.
- (d) A generic checklist to be worked through prior to initiating a tactical action should be developed. This will provide a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of TRT.
- (e) A standard method of determining whether a warrant should be regarded as high risk should be developed.
- (f) A method for deciding how best to serve a high-risk warrant should be developed, with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
- (g) The elements of post-incident scene management should include:
  - 1. Documentation of the incident.
  - 2. Transition to investigations and/or other units.

3. Debriefing after every deployment of the TRT team.

(h) Sound risk management analysis should be included.

(i) Standardization of equipment should be addressed.

### **405.3 TRAINING NEEDS ASSESSMENT**

The TRT commander shall conduct an annual SWAT training needs assessment to ensure that training is conducted within team capabilities and department policy.

(a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments. It also helps to identify training needs and reinforces sound risk management practices.

(b) When appropriate, debriefing should include specialized units and resources.

#### **405.3.1 INITIAL TRAINING**

TRT team operators and TRT supervisors/team leaders should not be deployed until successful completion of an approved basic SWAT course or its equivalent.

(a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content or topics meet or exceed requirements determined by the Department.

#### **405.3.2 UPDATED TRAINING**

Appropriate team training for the specialized TRT functions and other supporting resources should be completed prior to full deployment of the team.

TRT team operators and TRT supervisors/team leaders should complete update or refresher training/certification.

### **405.3 SUPERVISION AND MANGEMENT TRAINING**

Command and executive personnel are encouraged to attend training for managing the TRT function at the organizational level. This is to ensure that personnel who provide active oversight at the scene of TRT operations understand the purpose and capabilities of the team.

Command personnel who may assume incident command responsibilities should attend a TRT or critical incident commander course or its equivalent. TRT command personnel should attend a TRT commander or tactical commander course or its equivalent.



#### **405.3.4 TRT ONGOING TRAINING**

Training shall be coordinated by the TRT commander. The TRT commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise, in addition to specialized training. Training shall consist of the following:

- (a) Quarterly each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT basic drill for the handgun. Failure to qualify will require the officer to seek remedial training from an Armorer approved by the TRT commander. Team members who fail to qualify will not be used in SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- (b) Quarterly each SWAT team member shall perform a mandatory SWAT qualification course for any specialty weapon issued to or used by the officer during SWAT operations. Failure to qualify will require the officer to seek remedial training from an Armorer approved by the TRT commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

#### **405.3.5 TRAINING SAFETY**

Use of a designated safety officer should be considered for all tactical training.

#### **405.3.6 SCENARIO-BASED TRAINING**

TRT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

#### **405.3.7 TRAINING DOCUMENTATION**

Individual and team training shall be documented and records maintained by the TRT Commander until turned over to the training technician at the end of the calendar year.

#### **405.4.1 UNIFORMS**

TRT team members from this department should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

#### **405.4.2 EQUIPMENT**

TRT teams from this department should be adequately equipped to meet the specific mission identified by the Department.

#### **405.4.3 FIREARMS**

Weapons and equipment used by TRT, the specialized units and the supporting resources should be department-issued or approved, including any modifications, additions or attachments.

#### **405.4.4 OPERATIONAL READINESS INSPECTION**

The commander of the TRT shall appoint a TRT supervisor to perform an operational readiness inspection of all unit equipment at least quarterly. The result of the inspection will be forwarded to the TRT commander. The inspection will include personal equipment issued to members of the unit as well as special use equipment maintained for periodic or occasional use in the TRT vehicle.

#### **405.5 MANAGEMENT/SUPERVISION OF TACTICAL RESPONSE**

The commander of the TRT shall be selected by the Chief of Police upon recommendation of the staff.

##### **405.5.1 PRIMARY UNIT MANAGER**

Under the direction of the Chief of Police, through the Patrol Deputy Chief, the Tactical Response Team shall be managed by the appointed TRT commander.

##### **405.5.2 TEAM SUPERVISORS**

The TRT team will be supervised by the TRT commander.

The team leaders shall be selected by the TRT commander with approval from the Deputy Chief of Patrol.

The following represent supervisor responsibilities for the Tactical Response Team:

- (a) The TRT team leader's primary responsibility is to supervise the operations of the team, which will include deployment, first-line participation and other duties as directed by the TRT commander.

#### **405.6 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURE**

The CNT has been established to provide skilled verbal communicators, who may be utilized to attempt to de-escalate and affect surrender in critical situations where suspects have taken hostages, barricaded themselves or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the CNT.

#### **405.6.1 SELECTION OF PERSONNEL**

Interested certified personnel, who are off probation, shall submit a request to the CNT Coordinator. Interested personnel shall be evaluated by certain criteria, which include:

- (a) Recognized competence and ability as evidenced by performance
- (b) Demonstrated good judgment and an understanding of the critical role of a negotiator and the negotiation process
- (c) Effective communication skills to ensure success as a negotiator
- (d) Special skills, training or appropriate education as it pertains to the assignment
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions and training obligations

The CNT Coordinator shall submit a list of successful applicants to the Patrol Deputy Chief for final selection.

#### **405.6.2 TRAINING OF NEGOTIATORS**

Those officers selected as members of the CNT should attend a department-approved basic negotiator's course prior to deployment in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the team shall be conducted by the team supervisor. Performance and efficiency levels established by the team supervisor will be met and maintained by all team members. Any member of the CNT who performs or functions at a level less than satisfactory shall be subject to dismissal from the CNT.

#### **405.7 TACTICAL RESPONSE TEAM ADMINISTRATIVE PROCEDURES**

The TRT team were established to provide a skilled and trained team that may be deployed during events requiring specialized tactics, in situations where suspects have taken hostages and/or barricaded themselves, as well as prolonged or predictable situations in which persons who are armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the TRT/CNT teams.

##### **405.7.1 SELECTION OF PERSONNEL**

Interested sworn personnel who are off probation shall submit a request to their appropriate Deputy Chief, a copy of which will be forwarded to the TRT commander and other team leaders. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at

the discretion of the TRT commander. The testing process will consist of an oral board and a TRT basic handgun and team evaluation.

- (a) Oral board: The oral board will consist of personnel selected by the TRT commander. Applicants will be evaluated by certain criteria, which include:
  - 1. Recognized competence and ability as evidenced by performance
  - 2. Demonstrated good judgment and an understanding of the critical role of a TRT team member
  - 3. Special skills, training or appropriate education as it pertains to the assignment
  - 4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions and training obligations
- (b) TRT basic handgun: Candidates will be invited to shoot the TRT basic drill for the handgun.
- (c) Team evaluation: Current team members will evaluate each candidate on field tactical skills, teamwork, ability to work under stress, communication skills, judgment and any special skills that could benefit the team.
- (d) A list of successful applicants shall be submitted to the staff by the TRT commander and Deputy Chief of Patrol for final selection.

#### **405.7.2 TEAM EVALUATION**

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the team shall be conducted by the TRT commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all TRT team members. Any member of the TRT team who performs or functions at a level less than satisfactory shall be subject to dismissal from the TRT team.

#### **405.8 OPERATIONAL GUIDELINES FOR TACTICAL RESPONSE TEAM**

The following procedures serve as guidelines for the operational deployment of the Tactical Response Team and the CNT Team. Generally, the TRT team and the CNT will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the CNT, such as warrant service operations. This shall be at the discretion of the Incident Commander.

##### **405.8.1 ON-SCENE DETERMINATION**

The supervisor in charge at the scene of a particular event will assess whether the Tactical Response Team should respond. Upon final determination by the Shift Commander, the TRT commander will be notified.

##### **405.8.2 APPROPRIATE SITUATIONS FOR USE OF A TACTICAL RESPONSE TEAM**

Examples of incidents that may result in the activation of the Tactical Response Team include:

- (a) Barricaded suspects who refuse an order to surrender
- (b) Incidents where hostages have been taken
- (c) Cases of suicide threats
- (d) Arrests of persons reasonably believed to be dangerous
- (e) Any situation in which TRT or CNT deployment could enhance the ability to preserve life, maintain social order and ensure the protection of property

### **405.8.3 OUTSIDE AGENCY REQUESTS**

Requests by field personnel for assistance from outside agency crisis units must be approved by the Shift Commander. Deployment of the Eau Claire Police Department Tactical Response Team in response to requests by other agencies must be authorized by a Deputy Chief.

### **405.8.4 MULTIJURISDICTIONAL SWAT OPERATIONS**

The TRT team, including specialized units and supporting resources, should develop protocols, agreements, memorandums of understanding, collective bargaining agreements or working relationships to support multijurisdictional or regional responses.

- (a) If it is anticipated that multijurisdictional Tactical operations will regularly be conducted, Tactical team multi-agency and multidisciplinary joint training exercises are encouraged.
- (b) Members of the Eau Claire Police Department TRT team shall operate under the policies, procedures and command of the Eau Claire Police Department when working in a multi-agency situation.

### **405.8.5 MOBILIZATION OF TACTICAL RESPONSE TEAM**

The on-scene supervisor shall make a request to the Shift Commander for the Tactical Response Team to respond. The Shift Commander shall then notify the TRT commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained in the Shift Commander's office by the TRT commander. The Shift Commander will then notify the Patrol Deputy Chief as soon as practicable.

The Shift Commander should brief the TRT commander with the following information if available:

- (a) The number of suspects, known weapons and resources
- (b) If the suspect is in control of hostages
- (c) If the suspect is barricaded
- (d) The type of crime involved
- (e) If the suspect has threatened or attempted suicide

- (f) The location and safe approach to the Command Post
- (g) The extent of any perimeter and the number of officers involved
- (h) Any other important facts critical to the immediate situation, and whether the suspect has refused an order to surrender

The TRT commander shall then call selected officers to respond.

#### **405.8.6 FIELD UNIT RESPONSIBILITIES**

While waiting for the Tactical Response Team, field personnel should, if safe, practicable and if sufficient resources exist:

- (a) Establish an inner and outer perimeter.
- (b) Establish a Command Post outside of the inner perimeter.
- (c) Establish an arrest/response team. The team actions may include:
  - 1. Securing any subject or suspect who may surrender.
  - 2. Taking action to mitigate a deadly threat or behavior.
- (d) Evacuate any injured persons or citizens in the zone of danger.
- (e) Attempt to establish preliminary communications with the suspect. Once the TRT has arrived, all negotiations should generally be halted to allow the negotiators and TRT team time to set up.
- (f) Be prepared to brief the TRT commander on the situation. (g) Plan for and stage anticipated resources.

#### **405.8.7 ON-SCENE COMMAND RESPONSIBILITIES**

Upon arrival of the Tactical Response Team, the Incident Commander shall brief the TRT commander and team supervisors. Upon review, it will be the Incident Commander's decision, with input from the TRT commander, whether to deploy the Tactical Response Team. Once the Incident Commander authorizes deployment, the TRT commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the Command Post operation, outer perimeter security and support for the Tactical Response Team. The Incident Commander and the TRT commander or the authorized designee shall maintain communications at all times.

#### **405.8.8 COMMUNICATION WITH TACTICAL RESPONSE TEAM PERSONNEL**

All persons who are non-Crisis Negotiation Team personnel should refrain from any non-emergency contact or from interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel. No one should interrupt or communicate with Crisis Negotiation personnel directly. All non-emergency communications shall be channeled through the CNT supervisor or the authorized designee.

## **Findings**

Policy 405.8.1 outlines how the supervisor in charge should assess the need for a Tactical Response Team deployment. Once on scene and as the situation developed, Sergeant Jensen made the determination to request assistance from TRT. Policy 405.8.2 includes the following criteria as examples which may result in the activation of the team. They include but are not limited to: 1) barricaded suspects, 2) cases of suicide threats, 3) arrests of persons believed to be dangerous, and 4) any situation where TRT or CNT deployment could enhance the ability to preserve life, maintain social order and ensure protection of property. These criteria were met and support Sergeant Jensen's request for the assistance of the tactical team.

Policy 405.8.5 outlines the manner in which the request for the assistance of the TRT should come about. Policy states the shift commander should notify the TRT Commander, and if the commander isn't available a team supervisor should be notified. From there the Shift Commander will notify a Deputy Chief as soon as possible. The information given to the TRT Commander should include but not limited to such factors as 1) suspects and known weapons, 2) if the suspect is barricaded, 3) the type of crime involved, 4) the extent of and officers assigned to the perimeter, and 5) the location and safe approach to the Command Post. Please refer to this policy specifically delineated in the preceding paragraphs.

Both Sergeant Jensen and Sergeant Pieper were within the guidelines of this policy during the request for and decision to activate the Tactical Response Team. Sergeant Jensen relayed to Sergeant Pieper the behaviors demonstrated by Caponigro which necessitated a TRT response. Sergeant Pieper notified Lieutenant Thomas of the situation and his request to activate TRT. The notification to Lieutenant Thomas was made after contact to Deputy Chief Hoyord was unsuccessful. After Lieutenant Thomas gave his approval, Sergeant Pieper paged TRT personnel to respond to the incident.

Policy 405.8.6 outlines the responsibility of "field units" (non-TRT personnel) while waiting for the arrival of the Tactical response Team. Some of these responsibilities include but are not limited to: 1) the establishment of an inner and outer perimeter, 2) the establishment of a Command Post, 3) establishment of "ready teams" in the event of surrender, or the mitigation of a deadly threat, 4) evacuate citizens in danger, and 5) establish communications with the suspect. In the summation of the initial patrol response in this report, the immediate responding officers along with Sergeant Dohms established a perimeter. As additional officers and Sergeant Jensen arrived an outer perimeter was established along with a Command Post. Sergeant Dohms planned for and organized a ready team and a contingency was set for the evacuation of the other two living units at 4527 Woodford Court. As outlined earlier, one unit was evacuated while the other was found to be vacant at that time. Sergeant Jensen established an area for Fire/EMS personnel to safely stage in the event their services were needed.

During the early stages of initial response contact with Caponigro was established telephonically. As described earlier negotiations were attempted but were not reciprocated by Caponigro. It is the finding of this review that on-scene officers and supervisors were within the guidelines of Policy 405.8.6.

Policy 405.8.7 explains the responsibilities of the on scene or Incident Commander. Sergeant Jensen briefed Sergeant Pieper of the facts known at that time. They ultimately collaborated in the initial decision to activate the tactical team prior to consultation with and the approval of Lieutenant Thomas. As the situation evolved Sergeant Jensen maintained and performed the duties of Incident Commander while Sergeant Pieper performed the duties of Tactical Commander. Both of their actions met the guidelines of Policy 405.8.7.

As this was an unplanned event involving a subject who made homicidal and suicidal threats prior operational planning was not possible. Policy 405.2.3 states “Personnel responsible for developing an operational or tactical plan should be designated prior to, and/or during TRT operations (time permitting)”. Mission briefings are to take place prior to an operation “unless circumstances require immediate deployment.” Sergeant Pieper’s planning was within the guidelines of this portion of policy under the circumstances outlined in the previous section describing his deployment, arrival at the scene, assessment of the scene, and briefing and assignment of incoming personnel.

Policy 405.2.3 requires the Tactical Response Team to utilize operational procedures and practices based on the guidance of the National Tactical Officers Association (NTOA). The NTOA, its guidelines as endorsed by the International Association of Chiefs of Police (IACP), provides training and best practices for the operations of Special Weapons and Tactics (SWAT) and Tactical Response Team (TRT) operations. The NTOA guidelines and their IACP endorsement are contained within Appendix B.

The NTOA provides training, best practices, and reference material for many critical incident scenarios, including barricaded criminal suspects. Training materials for NTOA sponsored Team Leader Development Training, as attended by Sergeant Pieper, are included in Appendix C. These training materials served as the guidelines for the operational decision-making employed for this incident.

The NTOA describes the primary goal for resolving barricaded suspect scenarios is to bring the suspect out to officers whenever possible. Negotiations, as attempted in this situation, are recommended. NTOA only recommends entering the barricaded area when other options have failed, are unviable, and the suspects abilities have been diminished. Please see Appendix C, tab 12, page 2. The operational planning, decision-making, and intervention options utilized for this incident are consistent with this policy and NTOA reference material.



Crisis negotiations were attempted in this situation. Michael Caponigro would not participate in this attempted de-escalation strategy. Caponigro began a countdown, stated he was going to leave the residence, and harm others.

NTOA sponsored Team Leadership Development Training outlines the use of chemical agents as a best practice within the continuum for addressing barricaded criminal suspects. Please see Appendix C, tab 12, page 11. The intended results of deploying chemical agents as trained by NTOA include the following:

- Create dysfunction in the criminal suspect's ability and thought process.
- By deploying the chemical agents in specific areas of the residence, the suspect can be moved to an area within the residence that poses a lesser threat to others.
- By deploying chemical agents in specific areas of the residence, the suspect can be moved to an area within the residence that is more conducive to crisis negotiation.
- The barricaded criminal suspect will be forced to exit the residence, which is a position of tactical advantage for officers.
- The barricaded criminal suspect's threatening behavior can be stopped.
- The barricaded criminal suspect can be taken into custody.

The use of chemical agents in this situation was consistent with Eau Claire Police Department policy and best practices. The delivery of chemical agents into the adjoining apartment unit through the double window was a result of the nature of the diagram completed by [REDACTED]. This was confirmed by the interviews with ECSO Regional SWAT Officers Bergh and Beyer. These interviews are included in the investigative report completed by the La Crosse Police Department. A comparison of the actual deployment locations of the chemical agents and the reference diagram completed by [REDACTED] is shown in Figure 5.



Figure 5.

The application of deadly force by Sergeant Henning and attempted application of deadly force by Officer Olson was conducted as part of the Eau Claire Police Department Tactical Response Team

operations. Sergeant Henning and Officer Olson were deployed as a long rifle over watch team. This function is to assist in containing the threat, maintain a view of the barricaded suspect from a distance, with the use of a tactical long rifle outfitted with advanced optics.

NTOA sponsored Team Leadership Development Training outlines the use of long rifle over watch as a best practice within the continuum for addressing barricaded criminal suspects. Please see Appendix C, tab 12, page 8. The primary purpose of the over watch team is as follows:

- Monitor as much of the barricaded area as practical.
- Provide cover for police movement within the inner perimeter.
- Gather intelligence.
- Report suspect activity.
- Response to threat of death or great bodily harm.

The deployment of a long rifle over watch team was consistent with Eau Claire Police Department policy and best practices as trained by NTOA.

The ARV was utilized in a manner consistent with NTOA sponsored training. Training materials related to tactical operations and use of an ARV are contained in Appendix C. The reference material is contained within Tab 12, page 7. The primary purpose of the ARV is as follows:

- Ballistic protection for officers.
- Safe platform for communications with barricaded suspect.
- Safe platform for formal crisis negotiations.
- Move and block vehicles.
- Breaching.

The deployment of the ARV was done in a manner consistent with the department's Standard Operating Procedure. The facts related to this incident justified its deployment. The proper authorizations were obtained and the ARV was utilized in a manner consistent with the Standard Operating Procedure. The Eau Claire Police Department Standard Operating Procedure relating to the ARV is contained in Appendix D.

## **Mutual Aid and Outside Agency Assistance**

### **Facts**

As outlined earlier in this report, Sergeants Jensen and Pieper each requested assistance for mutual aid. Sergeant Jensen requested neighboring jurisdictions field any emergency calls in the city of Eau Claire should they have arisen. Sergeant Pieper requested assistance from Eau Claire County Sherriff's Sergeant and Eau Claire County Regional Tactical Commander Mark Provost.

### **325.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance to officers in requesting or responding to mutual aid and outside assistance requests involving another law enforcement agency (Wis. Stat. §

66.0313).

It is the policy of this department to provide assistance whenever reasonably possible. Assistance shall be consistent with the applicable laws and policies of this department when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance (Wis. Stat. § 175.40(6)).

For purposes of civil and criminal liability, any peace officer may, when in fresh pursuit, follow anywhere in the state and arrest any person for the violation of any law or ordinance the officer is authorized to enforce (Wis. Stat. § 175.40(2)).

### **325.2 MUTUAL AID AGREEMENTS**

The Department may, at the discretion of the Chief of Police, enter into a mutual aid agreement with a law enforcement agency of a physically adjacent state. An agreement may authorize the following (Wis. Stat. § 175.46):

- (a) Law enforcement officers from another agency may act with some or all of the arrest and other police authority of an officer of this department (Wis. Stat. § 175.46(2)).
- (b) Law enforcement officers from another agency may only enforce those laws or make arrests for violations that are similar to the types of laws that he/she is authorized to enforce violations for which he/she is authorized to make in his/her home jurisdiction (Wis. Stat. § 175.46(4)).

Any mutual aid agreement shall be written and may be on an individual case-by-case basis or may be a continuing agreement until terminated by either agency. At least 30 days prior to entering into a mutual aid agreement, this department shall submit a copy of the proposed agreement to the Wisconsin Department of Justice (WisDOJ) for review and comment. It is not necessary to have the consent of WisDOJ to enter into a mutual aid agreement. This department may revise the proposed agreement without having to resubmit the proposed agreement to WisDOJ (Wis. Stat. § 175.46(3); Wis. Stat. § 175.46(8)).

### **325.4 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES**

If assistance is needed from another agency, the employee requesting assistance should, if practicable, first notify a supervisor of his/her intentions, except in those situations where the employee or another is in imminent danger and there is an immediate need for assistance. The handling officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting officer should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

## ***Findings***

The actions of Sergeants Jensen and Pieper were both necessary and within the guidelines of requesting mutual aid.

### **Officer Involved Shooting**

#### ***Facts***

##### ***Sergeant Jesse Henning – Use of Deadly Force***

Sergeant Jesse Henning received the TRT page while at his home during the evening of July 22, 2017. The page specified that all personnel were needed to respond for a homicidal and suicidal subject who had barricaded himself. As he was stopped at the Eau Claire Police Department to retrieve his tactical gear he spoke with Sergeant Wise who informed him the suspect (Caponigro) had forced his roommate from their home by gun point and that he was possibly employed by the City of Eau Claire. After retrieving his standard issue tactical gear he made his way to the scene (he was already in possession of his department tactical long rifle and other over watch equipment). While enroute to the Woodford Court area, he learned from radio traffic that officers on scene had been confronted by Caponigro and that he had displayed a handgun.

Once on scene Sergeant Henning made contact with Sergeant Pieper to discuss his assignment. Initially Sergeant Pieper told him to prepare to be part of the entry team if deemed necessary. After discussion regarding other personnel and in particular other over watch personnel, Sergeant Pieper instead assigned Sergeant Henning to link up with Officer Jacob Olson as part of the over watch team. They ultimately took a position behind 4526 Woodford Court which is across the street from Caponigro's residence. Officer Marcus Walden was also at this location as was Officer Jason Ruppert.

Once in position Sergeant Henning prepared his position and rifle. This includes ensuring his weapon is on safe, estimating range, and making the necessary scope adjustments. After these preparations were complete he and Officer Olson determined which areas to observe. It was agreed that Officer Olson would cover the window and part of the front door and Sergeant Henning would cover the front door, part of the window, and part of the garage. Officer Walden served as their observer. While in position Sergeant Henning once again confirmed the original information he learned from Sergeant Wise in regards to Caponigro's behavior towards officers. He also obtained information from Officer Olson who had been one of the original responding officers.

As Sergeant Wise continued to attempt negotiations with Caponigro he kept personnel up to date. It was Sergeant Henning's understanding that Caponigro was agitated. Sergeant Henning was also advised by Sergeant Pieper that Caponigro threatened to "come out blazing," an obvious reference to shooting at officers and/or members of the community. When hearing of this, Sergeant Henning could hear a motorcycle running. Sergeant Pieper advised officers of Caponigro's displeasure that the lights remained on his home and his threats to shoot those lights. Sergeant Henning also heard Caponigro, through Sergeant

Wise, to have an officer in his sights. Sergeant Henning stated he knew the “situation was escalating and knew the situation was growing much more serious”. Sergeant Henning heard Sergeant Pieper relay Caponigro initiated a two minute countdown. This caused him concern as this is usually indicative of a subject who intends to “create harm”.

As he continued to watch his area of responsibility, Sergeant Henning could see Caponigro walking back and forth through an opening in the window blinds. Officer Olson stated he could see what appeared to be a sling over his shoulder. This information was relayed to all officers on scene by Officer Walden. As this was unfolding Sergeant Henning confirmed with Sergeant Pieper that Caponigro was alone in the home. Shortly thereafter Sergeant Henning heard three “bangs” coming from the home, which was determined to be the chemical agents deployed by the ECSO Regional SWAT team. Almost simultaneously he saw Caponigro approach the front window of the home and attempt to break the window with the butt of his gun. Sergeant Henning could clearly observe a long gun being held by Caponigro.

Sergeant Henning heard Officer Olson say he saw Caponigro with a gun. Sergeant Henning saw Caponigro lift the gun in an upward motion and point the gun towards him (Sergeant Henning). It was at this juncture Sergeant Henning believed he and others were in danger of great bodily harm or death. Sergeant Henning heard a shot from the gun in Caponigro’s possession, and when “hearing the shot go off”, within a split second, he pressed the trigger of his rifle and fired at the suspect. Sergeant Henning stated he saw the round he fired strike Caponigro, saw him fall “immediately” and out of his view. After he fired the round Sergeant Henning informed other officers via his police radio he had shot. Officer Walden was advised to transmit this information over the radio so officers would be advised of the gun shot and that the suspect was down.

After this information was transmitted the ARV was moved in front of the home. Sergeant Henning placed his rifle on safe and left his rifle in the location from which he shot. Officer Walden placed a latex glove near the location of the spent shell casing. Sergeant Henning left his belongings behind and was escorted to the Tactical Truck by Officer Ruppert.

The subsequent investigation by the La Crosse Police Department confirmed Caponigro had discharged his shotgun in the direction of officers. This act put officers and the general public at risk. A spent shotgun shell casing was recovered in the chamber of Caponigro’s pump shotgun. Wadding from a spent shotgun shell was recovered in the front yard near where officers were positioned. Officers Gullickson and Ollmann reported having broken glass stuck to their uniform from Caponigro’s shooting through his residence’s window in their direction.

### ***Officer Jacob Olson***

As stated earlier in the *Response* section, Officer Jacob Olson responded to the scene upon the initial call for assistance from Officers Briski and Wutschke. Prior to making his way to the scene he retrieved his tactical gear from his personal vehicle. He responded to the scene in emergency mode. During his response he learned that the suspect (Caponigro) had displayed a handgun to officers and forced his roommate out of the home at gun point.

As he arrived on scene he readied his tactical scoped rifle for deployment and took a position to the west of 4526 Woodford Court. He advised Officer Walden to utilize his binoculars to observe the residence and ensure no one approaches their position from the rear. Sergeant Henning was also part of this over watch team. While in position he observed Caponigro intermittently peer from the vertical blinds covering his windows. He also saw Caponigro extend his middle finger towards officers through the front glass door to his home. Officer Olson was made aware of the previous information regarding the failed negotiations with Caponigro, his continued agitation and hostility towards officers, and the fact at one point he claimed to have an officer in his sights and that he (Caponigro) could shoot that officer.

As the ARV was placed to the front of Caponigro's home, Officer Olson found it necessary to move in order maintain over watch of the residence. Because of this move associated with a rooftop, Officer Olson determined it was appropriate to remove the bullet from the chamber of the rifle for safety purposes. Officer Olson did this by pulling the rifle's charging handle to the rear. The bullet was ejected from the rifle's chamber.

Officer Ruppert's vehicle was in a position where it would provide cover from across the street of Caponigro's residence. Officer Olson positioned himself near this vehicle. Officer Olson then readied his rifle by pulling the charging handle to the rear and releasing the handle. This was done to move a bullet from the rifle's magazine, into the rifle's chamber. As they were in position Officer Olson observed Caponigro through the blinds in the front window. He could see a sling over his shoulder and see Caponigro pacing back and forth with a long gun in his hands.

Shortly after chemical agents were deployed, Officer Olson saw Caponigro attempt to break the front window of the home with the butt of his long gun. He then saw Caponigro stand in front of the window in a "squared up position," consistent with a shooting stance. He saw Caponigro point the long gun in his possession toward the window. He saw a muzzle blast and saw and heard the sounds of glass "breaking forwards and outwards towards him and other officers. He felt in fear of great bodily harm or death to himself and others.

Officer Olson pulled the trigger of his tactical rifle and heard a "click", indicative of a malfunction. Nearly simultaneously he heard Sergeant Henning fire his weapon. Officer Olson could not see Caponigro where he had previously been. Sergeant Henning instructed Officer Olson to advise over the radio that he had shot and the suspect was down.

Officer Olson attempted to clear the bullet which failed to fire from the rifle's chamber by conducting a trained procedure to clear the malfunction. Officer Olson checked the magazine's seating in the rifle, pulled the charging handle to the rear, and released the handle. This did not fix the malfunction, but rather caused a double feed. A double feed occurs when one bullet is not fully chambered and the bullet directly beneath it, moving from the magazine to the chamber, gets lodged between the chambered bullet and the rifle's bolt. A photograph of this double feed is shown below in Figure 6.



Figure 6.

Officers Olson and Walden remained of their position until relieved by Officer Larsen. They were then advised to report to Eau Claire Police Department to meet with Lieutenant Golden.

### **300.3.1 USE OF FORCE TO AFFECT AN ARREST**

#### **State**

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).

### **300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

#### **Federal**

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 (age, size, relative strength, still level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.

- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Any other exigent circumstances.

### **300.4 DEADLY FORCE APPLICATIONS**

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. 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 any one of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

#### **300.4.1 IMMINENT THREAT CRITERIA**

An officer intending to use deadly force must reasonably believe all of the following criteria of “imminent threat” are present:

- **INTENT:** The displayed or indicated intent to cause great bodily harm or death to you or another person, and;
- **WEAPON:** A weapon capable of inflicting great bodily harm or death (conventional or unconventional weapon), and;
- **DELIVERY SYSTEM:** The delivery system for utilization of that weapon. The subject must have a means of using the weapon to inflict harm.

### **Findings**

Sergeant Henning’s and Officer Olson’s decision to use deadly force was objectively reasonable based on United States case law, Wisconsin law, Wisconsin DAAT guidelines, and department policy. Wisconsin law states an officer may use deadly force based upon the reasonable belief “that such force is necessary to prevent imminent death or great bodily harm to himself or herself.” This principle is extended to third parties, and in this case would specifically extend to one another as they were to the front of the trajectory of the shot fired by Caponigro. Furthermore, several officers were in the direct path of Caponigro’s shot to include two who were struck by glass from the force of Caponigro’s shot. As for further justification for the



use of deadly force, the DAAT manual defines that conduct as behavior “which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.” DAAT use of force guidelines are directly incorporated into department policy.

The concept of **imminence** as defined by DAAT guidelines includes the following criteria: *intent, weapon, and delivery system*. All three components were presented and exercised by Caponigro. He verbally communicated his intent to shoot at officers with the firearm in his possession and was clearly capable (delivery system) of firing the weapon. His actions and words were clear and the criteria of imminence were demonstrably met.

Another factor to consider in any deadly force situation is the concept of **preclusion**. Preclusion, as outlined by the DAAT manual, is the notion that the application of a lower level of force would not be reasonable or effective under the given circumstances an officer is in. Caponigro made homicidal threats towards [REDACTED], and the display of the handgun and hostility directed towards responding officers. Attempts towards a peaceful resolution through negotiation were met with aggression and defiance by Caponigro. He threatened to shoot officers and refused to comply with officer’s commands to surrender peacefully. Finally he pointed at and shot towards officers from the front window of his residence. Given the extreme threat he posed to officers and the community, lower levels of force would have been ineffective, and would have created a more dangerous situation.

The malfunction that occurred when Officer Olson attempted to fire his assigned rifle was either caused by human error or a rifle defect. Potential human error would involve either Officer Olson improperly re-loading the rifle through the operation of the charging handle (not fully pulling handle back) or from excessive use of cleaning oil, prohibiting the rifle’s mechanism from properly functioning.

Following this incident, Officer Olson’s rifle was taken to Hugo, MN and inspected by the manufacturer, JP Rifles. A company representative inspected the rifle’s operation, disassembled the rifle, and inspected its parts. The company representative felt the rifle functioned properly and had the proper amount of oil present. The representative did replace the rifle’s extractor and extractor pin with a new and updated version of these two parts. Since Officer Olson’s assigned rifle was manufactured, JP Rifles developed an updated and more advanced version of these parts. These parts play an important role in the seating and extraction of bullets, directly related to Officer Olson’s malfunction. These updated parts were later obtained and installed in the department’s other JP Rifles.

NTOA sponsored Team Leadership development training outlines the guidelines for the use of long rifle over watch teams. NTOA guidelines recommend over watch teams be deployed in two person elements. The purpose of deploying in pairs is to improve safety and security of each officer, overcome a barrier, or equipment malfunction. Please see Appendix C, tab 5, page 4. Sergeant Henning’s and Officer Olson’s deployed in accordance with this trained best practice. By following this procedure, Officer Olson’s malfunction was overcome.

Eau Claire District Attorney Gary King reviewed the investigation conducted by La Crosse Police Department and concluded that the actions of Sergeant Henning were justified under the circumstances of this incident. Based on the findings of this review, Sergeant Henning and Officer Olson’s actions and decision making when Caponigro was confronted were appropriate per departmental policy.

## ***Follow Through Actions***

### ***Facts***

After Sergeant Henning returned to Eau Claire Police Department, he went to the Patrol Division Training Room where he waited for WPPA representative Michael Backus to arrive. He advised he spoke with no one about the incident until he met with La Crosse investigators.

After the Tactical team cleared Caponigro's residence, Lieutenant Thomas assumed command from Sergeant Jensen. Lieutenant Thomas notified Fire Command it was safe to enter the home. From there it was determined that no life-saving efforts would be necessary. Lieutenant Thomas also contacted Eau Claire Police Chief Gerald Staniszewski. Chief Staniszewski contacted the La Crosse Police Department to request their assistance with the criminal investigation. Sergeant Jensen transitioned into assuming command of scene security and set a perimeter around the residence. Lieutenant Thomas requested the Eau Claire County Medical Examiner respond to the scene. Medical Examiner Rosas pronounced death shortly after her arrival, at approximately 0155 hours on July 23, 2017.

Officer Ellen Schroeder maintained the scene entry log until relieved by Officer Ben Hundt on July 23, 2017 at 0800 hours. Officer Hundt maintained this duty until 1500 hours that same day. Sergeant Gary Axness was assigned to supervise scene security and did so on July 23, 2017 at 1320 hours. Lieutenant Greg Weber also served as scene security and they both maintained that role until the scene was released.

After their arrival from the scene, Lieutenant Tim Golden documented and photographed the equipment and clothing utilized by Sergeant Henning and Officers Olson and Walden. He completed documentation of this inventory, which can be found in Lieutenant Golden's report. After the inventory was complete Lieutenant Golden was tasked with escorting Sergeant Henning to Mayo Hospital for the collection of a blood sample, as required by policy. WPPA representative Michael Backus and Sergeant Henning stated he would voluntarily submit to the blood draw. This was completed by a phlebotomist employed by Mayo Hospital. The blood sample was collected on July 23, 2017 at 0314 hours. The vials were sealed in the kit at 0317 hours.

### **Policy/Procedure:**

#### **305.4 INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

##### **305.4.1 UNINVOLVED OFFICER RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved ECPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.

- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

### **305.4.2 SUPERVISOR RESPONSIBILITIES**

Upon arrival at the scene, the first uninvolved ECPD supervisor should ensure completion of the duties as outlined above plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  - 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any ECPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Commander and the Communication Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional ECPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  - 1. Each involved ECPD officer should be given an administrative order not to discuss the incident with other involved officers or ECPD members pending further direction from a supervisor.
  - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

### **305.4.3 WATCH COMMANDER RESPONSIBILITIES**

Upon learning of an officer-involved shooting or death, the Shift Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Deputy Chief.

All outside inquiries about the incident should be directed to the shift commander until that responsibility can be delegated.

### **305.4.4 NOTIFICATIONS**

The following persons shall be notified:

Mandatory notifications:

- Chief of Police
- Detective Deputy Chief
- Patrol Deputy Chief
- Lieutenant of Special Services (PIO)
- Director of Administration
- Director of Communications Center
- Chief of Police Assistant

Other notifications to consider:

- Use of Force Coordinator
- Outside agency investigators (if appropriate)
- City Risk Manager
- Psychological/peer support personnel
- Chaplain
- Records technician
- Medical Examiner (if necessary)
- Officer representative (if necessary)

### **305.4.5 INVOLVED OFFICERS**

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated (Wis. Stat. § 164.02(1)(b)).
  1. Involved ECPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  2. Requests from involved non-ECPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the department to each involved ECPD officer. A licensed psychotherapist may also be provided to any other affected ECPD members, upon request.
  1. Interviews with a licensed psychotherapist will be considered privileged.
  2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved witness officer.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved ECPD officer shall be given the reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Commander to make schedule adjustments to accommodate such leave.

### **305.5 CRIMINAL INVESTIGATION**

In the event of an officer involved death the Eau Claire Police Department will request a team of investigators consisting of three individuals, two of whom must be from an agency that does not employ an officer involved in the death being investigated, to investigate the officers' actions relating to the death. One agency will be appointed the lead investigative agency by the Chief of Police or his/her designee.

If the officer-involved death being investigated is traffic-related, the investigation must include the use of a crash reconstruction unit from a law enforcement agency separate from ECPD (Wis. Stat. § 175.47(3) (b)).

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) Supervisory personnel should not participate directly in any voluntary interview of ECPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.
- (e) An Eau Claire Police Department supervisor will be assigned as the liaison to the investigators from the lead investigating agency.

The Deputy Chief of Detectives should assign investigators from the Eau Claire Police Department to investigate the suspect's actions.

### **305.6 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved ECPD officers to determine conformance

with department policy. This investigation will be conducted under the supervision of the Deputy Chief or his/her designee and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death shall be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer or a court order, such samples shall not be submitted for analysis. At the conclusion of the investigation of the death, the sample may be destroyed if a court approves.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - (1) If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - (1) Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  - (2) If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Wis. Stat. § 164.02(1)(b)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
  - (3) Administrative interviews should be recorded by the investigator. The officer may also record the interview.
  - (4) The officer shall be informed of the nature of the investigation. (Wis. Stat. § 164.02(1) (a)). If an officer refuses to answer questions, he/she should be given his/her Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  - (5) The Supervisor shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  - (6) Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

### **305.8 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the Chief of Police or his/her designee.

### **Findings:**

Policy 305 establishes guidelines and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting. Policy 305.4 relates directly to the investigation process and identifies the responsibilities of various individuals. Individuals considered are uninvolved officers, supervisors, watch commanders and involved officers. The policy also identifies notifications that shall be made. A comprehensive review was completed into the responsibilities and notifications.

Policy 305.4.1 explains the responsibilities of uninvolved officers. A number of uninvolved officers arrived on scene in close proximity to one another. Uninvolved officers took on multiple roles after arriving on scene. Uninvolved officers met the responsibilities listed in (a) through (f) and were in compliance with this policy. All responsibilities with exception of “b” (taking reasonable steps to obtain emergency medical attention for injured individuals) were taken at the outset and/or during the incident. Medical aid was Eau Claire Communication Centered and undertaken for Caponigro after his residence was deemed safe for Emergency Medical Technicians from the ECFD to enter.

Policy 305.4.2 explains the responsibilities of supervisors. As all concerned supervisors were on scene and appraised of the situation as it occurred there was no practical need to obtain an overview. All actions taken were broadcast via police radio, to include the announcement that an officer had shot. Public safety was not a concern as the threat was stopped after it was determined Caponigro was no longer a viable threat. The scene was firmly under control at the outset of the incident and remained so until taken over by La Crosse Police Department investigators.

As indicated earlier Sergeant Henning and Officer Olson left their rifles at the scene where they were positioned upon firing, or in Officer Olson’s case attempting to fire their weapons. Because of this unique situation they were not given replacements for their rifles. The guidelines within this policy were followed.

Policy 305.4.3 explains the responsibilities of the watch commander. The policy states that the shift commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Deputy Chief. Sergeant Jensen established and maintained command throughout this event until relieved by Lieutenant Thomas. This complies with the mandates of this policy.

Policy 305.4.4 explains the mandatory notifications that shall be made following an officer-involved shooting. All mandatory notifications were made in compliance with this policy.

Policy 305.4.5 explains considerations for involved officers. Sergeant Henning and Officer Olson did not discuss the events of the shooting and were allowed access to WPPA legal counsel. Sergeant Henning was

placed on administrative leave. A comprehensive review of this policy showed that the personnel responsible for offering and providing these services were in compliance with this policy.

Policy 305.5 explains the criminal investigation process in the event of an officer-involved death. The outcome of this incident resulted in the death of Michael Caponigro. Chief Gerald Staniszewski contacted the La Crosse Police Department and requested their assistance. La Crosse Police Department was appointed as the lead investigative agency. Captain Shawn Kudron, Sergeant Michael Blokhuis, Sergeant Tim O'Neill and Investigator Brandl were the lead investigators.

Following the incident, Sergeant Henning was contacted by Captain Kudron and La Crosse Police Department investigators. Sergeant Henning had been in the company of WPPA representative Michael Backus. Sergeant Henning agreed to do a walk-through of the scene at 4527 Woodford Court. Sergeant Henning was accompanied by Michael Backus and La Crosse Investigators Captain Kudron, Captain Kloss, Sergeant O'Neill and Investigator Brandl.

Lieutenant Derek Thomas was assigned as liaison to the La Crosse Police Department investigators.

Additional interviews were conducted with Eau Claire Police Department Sergeants Jensen, Dohms, Wise, Frederick and Pieper. Eau Claire Police Department Officers Wutschke, Briski, Gullickson, Schreier, Aldrich, Chapin, Cullen, Hunsley, Larsen, Leque, Walden, Vang, Coit, Johnson, Anderson, McClain, Ruppert, Schroeder, and Glennon were interviewed as well. Eau Claire County Sheriff's employees, Eau Claire County Tactical Team members, and ECFD personnel were also interviewed.

Based on Michael Caponigro's death there was no Eau Claire Police Department criminal investigation into the suspect's actions as outlined by department policy.

A review of this policy showed that all personnel involved with the criminal investigation process were in compliance with the policy.

Policy 305.6 explains the administrative investigation process in the event of an officer-involved shooting or death. The policy states under 305.6(a) that any officer involved in a shooting or death shall be administratively compelled to provide a blood sample for alcohol/drug screening. Lieutenant Golden was assigned to transport Sergeant Henning to Mayo Clinic Health System for the administrative blood draw. Lieutenant Golden was present when blood was drawn from Sergeant Henning. The sealed blood kit was turned over to Lieutenant Golden who retained possession of the blood kit until securing it in the evidence refrigerator. The collection and storage of the blood sample were in compliance with this policy.

The remainder of policy 305.6 relates to administrative interviews of involved officers. After reviewing the voluntary statements documented by La Crosse Police Department investigators it was determined no administrative interviews would be necessary.

Policy 305.8 states that any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports. There was no video recovered which shows events as they unfolded on Woodford Court. Although responding officers had their MVR's activated, video which shows



what happened on-scene was not captured due to the distance from 4527 Woodford Court in which officers parked.

### *Post Incident Investigation*

#### **Policy/Procedure:**

#### **305.5.2 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **Findings:**

The dynamics of this were such that the witnesses (Deputy Henning, [REDACTED] [REDACTED] leading up to this case had been identified and/or spoken to. After the shooting, the scene was secured and held until La Crosse Police Department investigators took command of the scene.

The actions and decision making of the officers involved in identifying and interviewing witnesses were appropriate and compliant with department policy.

#### **Conclusion:**

The administrative review of this incident is a comprehensive report which evaluated the actions and decision-making of officers involved in this incident. Facts were gathered from multiple sources, to include the criminal investigation report submitted by the La Crosse Police Department of the involved

officer's actions, the comprehensive review submitted by Eau Claire District Attorney Gary King, numerous Eau Claire Police Department officer reports, squad video, recorded Eau Claire Communication Center audio, and recorded phone calls. Departmental Policies, Standard Operating Procedures, best practices, and training materials were identified and used to evaluate the officers' actions and decision making during this incident.

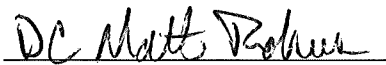
The examination of the actions undertaken by the supervisors, officers and telecommunicators of the Eau Claire Police Department showed no conflicts with policy, procedures, guidelines, or training. Starting with the initial response and concluding with the transition of the investigation to the La Crosse Police Department, the actions contained and described in this document are within the guidelines of these reference materials.

Respectfully Submitted,

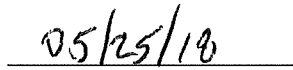


Ryan Dahlgren  
Lieutenant of Police

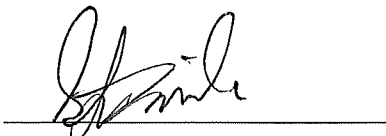
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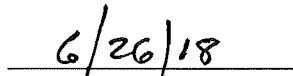
Matt Rokus  
Deputy Chief of Police



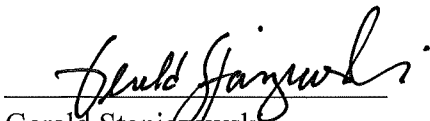
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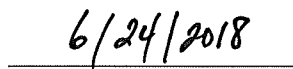
Stephen Nick  
City Attorney



(Date)



Gerald Staniszewski  
Chief of Police



(Date)



## **OFFICE OF DISTRICT ATTORNEY**

Gary King | District Attorney

Peter Rindal | Deputy District Attorney

March 2, 2018

### **PRESS RELEASE – OFFICER INVOLVED SHOOTING JULY 22, 2017**

On July 22, 2017, an officer-involved shooting took place in the City of Eau Claire. The incident involved City of Eau Claire Police Sergeant Jesse Henning. Sergeant Jesse Henning responded to 4527 Woodford Court, #3, Eau Claire, WI 54701 as part of a Tactical Response Team (hereinafter TRT) call out to that residence. The TRT was called out to the residence after initial reports that an occupant of the residence, Michael Caponigro, had made multiple comments of a suicidal/homicidal nature earlier that day. In response to the comments made by Michael Caponigro, two City of Eau Claire police officers responded to the residence to perform a welfare check on Michael Caponigro. During this welfare check, Michael Caponigro was not cooperative with the police officers and yelled obscenities at them. In addition to the obscenities, Michael Caponigro also showed that he was in possession of a handgun and indicated that the situation would not end well. Following these comments, Michael Caponigro went back into his residence. A several hour standoff took place between law enforcement and Michael Caponigro. During this time, Michael Caponigro communicated with multiple individuals while continuing to make suicidal/homicidal comments. Police negotiators spent hours in attempts to communicate with Caponigro to peacefully end the standoff. These negotiation efforts took place while law enforcement, including TRT and SWAT units responded to the residence. After a final attempt at negotiation, a decision was made to utilize gas in an attempt to have Michael Caponigro exit the residence and safely end the standoff. In response, Michael Caponigro armed himself with a shotgun and fired a shot out of the window of his residence in the direction of law enforcement. Under the circumstances and in response to Michael Caponigro's actions, Sergeant Jesse Henning fired one shot from his weapon at Michael Caponigro. The shot was fatal to Michael Caponigro and he died at the residence.

As a result of the incident on July 22, 2017, and pursuant to the laws of the State of Wisconsin, an investigation was undertaken by an outside law enforcement agency – the City of La Crosse Police Department. The lead investigator was Captain Shawn Kudron. The investigation included several hundred pages of narrative reports, photographs, videos, interviews, 911 call transcripts, and crime lab reports. The investigation also included a total station and scene

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diagram by the Wisconsin State Patrol, an autopsy of Michael Caponigro, as well as other miscellaneous information related to the investigation.

### **Michael Caponigro Status July 22, 2017**

On July 22, 2017, Michael Caponigro resided at 4527 Woodford Court, #3 in the City and County of Eau Claire. He lived at that residence with one other individual, TB. As part of the investigation, law enforcement interviewed Michael Caponigro's roommate, relatives, friends, and neighbors. On July 22, 2017, Michael Caponigro was employed by the City of Eau Claire.

### **Initial Report**

As part of the investigation, Detective Don Henning of the Eau Claire County Sheriff's Department was interviewed. Detective Don Henning has worked for the Sheriff's Department for 22 years, including the last 6 ½ as a detective. Detective Don Henning said that on the day of the incident, he was working traffic detail at the Country Jam festival when at approximately 8:15 p.m. he observed a black Dodge pickup truck, two-door, single cab, traveling eastbound on Crescent Avenue coming toward his location. Once the vehicle stopped, a female, later identified as CB, jumped out of the passenger side of the truck and approached him on foot. CB walked toward him while the Dodge pickup truck continued to travel east on Crescent Avenue. CB had contact with Detective Don Henning and said that she had just been in a verbal argument with her boyfriend, Michael Caponigro.

CB advised that she had been at Country Jam with Michael Caponigro that day since approximately 3 p.m. CB said that when the rain began to fall earlier that evening that they both went for cover underneath some tents and got separated. After the rain was done, CB said that she and Michael Caponigro got into an argument, particularly because Caponigro could not find her in the tent. CB said that after a certain period of time, she advised Caponigro that she was done with him and wanted him to take her home. Caponigro responded "oh this is how it's going to end; we're just going to go home like this." CB advised Caponigro that she did want to go home. CB said it was approximately a half-mile walk to where the vehicle was parked.

CB advised that while walking back to the pickup truck, Michael Caponigro became verbally abusive, calling her names, and talking in the past tense. Caponigro said things like "you were a good grandma" and that "you were a good girlfriend." CB asked Michael Caponigro what he meant and why he was talking like that. Michael Caponigro responded by saying "because if I can't have you, no one will; I have no one and I have nothing." Michael Caponigro then stated that he wanted to be with his brother, Lou. CB advised that Lou had passed away in March of 2017. CB advised Detective Don Henning that she was concerned about this and that Michael Caponigro had been drinking that day and was somewhat intoxicated. CB said that when Michael Caponigro is intoxicated, he becomes unreasonable and rude.

CB said that once in the vehicle, Michael Caponigro's stepson called him. Caponigro started talking to his stepson and said "it's done, it's over, the car is all yours." Caponigro also said "don't worry, I am fine, I am going to see my brothers." Caponigro told his stepson that his restored Pontiac Firebird is in his stepson's name and that he would leave the title of the vehicle in the apartment easy for him to find. After a short conversation, Michael Caponigro ended the call with his stepson.

Following the call with the stepson, CB said that Michael Caponigro asked her "are you coming into the apartment and into my bedroom to get your stuff when we get home?" CB said that she was going to do that to which Caponigro responded "good." When CB asked Caponigro why he said that, Caponigro said "because I'm going to kill you and then I'm going to kill myself." CB said they continued to argue until they got near the intersection where police officers were directing traffic. CB said she knew she needed to get out of the truck for help before something happened to her. CB said once the vehicle stopped, she quickly stepped out of the passenger side and approached Detective Don Henning for help.

Detective Don Henning asked CB if Michael Caponigro had ever attempted or threatened suicide in the past. CB said that he had. CB said approximately five years ago, he attempted and threatened suicide by taking sleeping pills. This was soon after another brother of his had died. CB said that since Caponigro's brother Lou died in March that Caponigro had not been the same since. After receiving this information from CB, Detective Don Henning called dispatch and provided information about the situation. He also requested that the City of Eau Claire Police Department go and do a welfare check, as Michael Caponigro was possibly suicidal and homicidal. While Detective Don Henning communicated with dispatch, CB stayed in a squad car waiting for a friend to come pick her up. While waiting CB received a text from Michael Caponigro that read "tell them to come and get me, I'm ready." CB advised that she knew Caponigro had access to a pistol and that officers should be careful. Under the circumstances, when CB's friend, DS, arrived, a decision was made for both CB and DS to be transported to the Eau Claire Police Department.

## **Interview of CB**

CB was interviewed as part of the investigation. CB said that she had been in an "on again, off again" relationship with Michael Caponigro for the past 4 plus years. CB advised that they got along well for the first two years of the relationship. CB advised that after that, Michael Caponigro would drink heavily and began to verbally and physically abuse her. At one point a temporary restraining order was obtained, but later it was dropped. CB advised that when Michael Caponigro drinks to excess, that he would become belligerent, agitated, aggressive, and abusive. CB advised that she had not spoken to Michael Caponigro for the past two months, but that Caponigro would follow her around and just show up at different locations. CB said that Caponigro began to aggressively call her, asking to see her again. CB said she

agreed and they began to see each other off and on. CB said it started out fine, but then Caponigro became more aggressive and abusive.

CB said that Michael Caponigro had called her on July 12 or July 13 asking her if she wanted to go to the Country Jam festival. After several calls, CB agreed to go and that she would go with him on Thursday and Saturday. CB said that everything was fine when they went to Country Jam on Thursday. On Saturday, CB went to Caponigro's residence around 3 p.m. CB said that Caponigro had already been drinking and appeared to be partially intoxicated. CB said she advised Caponigro that he should stop drinking for a while and that Caponigro became upset. Before leaving, CB said she left a bag of clothes in Caponigro's room and also left her purse in his residence.

CB advised that at approximately 7 p.m., some heavy storms came to the fest grounds, causing a hard downpour of rain. CB said that she and Caponigro ended up in different tents and that this upset Caponigro. Caponigro accused CB of intentionally ditching him and wanted to know where she had been and who she was with. CB advised that Caponigro had consumed at least ten large mugs of beer. CB said that while walking, Caponigro was calling her names. CB asked him to stop but the name calling continued. At approximately 8 p.m., CB told Caponigro that she had enough and wanted to go home. CB said Caponigro was furious with her and continued to call her names.

CB advised that the truck was approximately one-half mile away. While going back to the vehicle, Caponigro continued to call her names and then began talking to her in the past-tense. CB asked him why he was talking like that and Caponigro said "because if I can't have you, no one will." CB said that while they were traveling in the truck, Caponigro got a call from his stepson. Caponigro told his stepson that he was going to be with his brothers and not to worry, that he had signed the Pontiac Firebird over to his stepson. CB said while traveling in the truck at a slow pace, Caponigro told her "I'm going to kill you and then I'm going to kill myself." CB said that given the way this was stated, she knew Caponigro was serious. CB said she determined she needed to get out of the vehicle for her own safety. CB said when the vehicle came to a slow stop near the officers, she opened the door and exited the truck. CB said she made contact with a member of the Eau Claire County Sheriff's Department and explained the whole situation.

As part of the interview, CB was informed that her vehicle had been damaged, including her front windshield and her front passenger side window. CB was also advised that her purse and overnight bag had been observed on the grill outside of Michael Caponigro's apartment, where they had been set on fire.

## **Officer Wutschke Interview**

Officer Wutschke was interviewed as part of the investigation. Officer Wutschke advised that he had worked for the Eau Claire police department for 4.5 years and that he is also a trained crisis negotiator. Officer Wutschke said that on July 22, 2017, he was working as a patrol officer on the south district evening overlap shift. Officer Wutschke said that dispatch informed him of a situation where a female had fled a vehicle after having an argument with a male and that the male had made homicidal and suicidal statements. The information also included that the male was driving a black Dodge pickup truck, was headed back to his residence and that he had access to a handgun.

Officer Wutschke said he and Officer Briski arrived at the scene on Woodford Court together. Officer Wutschke said he observed a black Dodge pickup truck in front of the residence. Officer Wutschke said they approached and found a bald headed male standing outside a pickup truck. The subject was standing by the hood and talking on his phone. The subject didn't notice the officers until they approached and called out the name "Mike." After calling out the name, the subject became agitated and replied "fuck you, get the fuck out of here, back the fuck up!" Officer Wutschke attempted to ask the subject why he was so upset. The subject refused to communicate and continued with agitated remarks. At that point, the subject lifted up his white t-shirt to expose a black handgun located in his front waistband. Officer Wutschke noted that the gun was in a holster. The subject made comments that this could "go bad." Officer Wutschke drew his firearm and provided commands. The subject continued with remarks. The subject then went around the corner of the garage and was out of sight. Officer Wutschke then advised dispatch that the subject was armed and requested assistance.

Officer Wutschke left his original position to go around the apartment complex directly across from the subject's apartment door to get a view of the front door of 4527 Woodford Court, #3. Within a minute, the subject came out the front door looking to see where the officers were located. Officer Wutschke again gave him verbal commands to show his hands. The subject did not comply and picked up something black in color from the lawn and retreated back into the residence. The subject continued yelling "fuck you" multiple times.

Officer Wutschke remained in his position of cover armed with his duty weapon. Officer Briski met him at his position and other officers began to arrive. Officers Wutschke and Briski moved to the silver colored Equinox to watch the front door and window. The subject came out multiple times before more officers arrived. The door opened and a white male was pushed out of the front door. The door was then closed. The male was given directions to keep his hands up and move away from the residence. Officer Wutschke had the impression that the subject didn't want the other male being part of what was going on and just wanted him out of the residence. Officer Wutschke noted that several other officers arrived and that instructions were provided by tactical command. One duty was to evacuate 4526 Woodford Court. As evacuation of the units

began, shooting began at the residence. Following the shooting, Officer Wutschke stood by with the stepson of the subject until the tactical team cleared the residence.

### **Officer Briski Interview**

Officer Briski was interviewed as part of the investigation. Officer Briski advised he has been a police officer with the City of Eau Claire for approximately 2.5 years. On the date of the incident, Officer Briski advised he heard a general broadcast regarding a domestic situation involving a suicidal person who had left from the Country Jam grounds. The information included that the subject was driving a black Dodge and that the subject had threatened to kill himself and the complainant. Officer Briski said he and Officer Wutschke were dispatched to 4527 Woodford Court to check the welfare of Michael Caponigro. Officer Briski advised that Caponigro owned or had access to a handgun. Officer Briski said he and Officer Wutschke parked near the intersection of Prairie Lane and Woodford Court, where they observed a black Dodge Ram parked in the driveway of 4527 Woodford Court. Officer Briski was surprised that Michael Caponigro had already made it back to the residence. As he and Officer Wutschke began walking toward the residence, they observed a male subject standing near the hood of the Dodge Ram talking on the phone and appeared to be drinking a beer or something. It was determined that Officer Wutschke would make contact with the subject as he is a trained negotiator.

Officer Briski said that Officer Wutschke initiated contact with Caponigro. Caponigro immediately responded by saying “fuck you, what the fuck are you guys doing here?” Officer Briski said Caponigro’s demeanor remained uncooperative and vulgar throughout the contact. Officer Briski advised that Caponigro made the comment “this is going to go one of two ways guys, but I’m going to make you shoot me.” As Caponigro said this, Officer Briski said that Caponigro lifted his shirt at which time he saw “very clearly” the butt of a handgun tucked into the front of his waistband. Officer Briski said that he targeted Caponigro with his duty firearm and ordered “do not reach for the gun.” Caponigro responded by saying “fuck you” and began walking away. Officer Briski said he and Officer Wutschke updated dispatch and requested additional resources.

Officer Briski said that while they stayed in position, he could see a grill smoking. Officer Briski said they also observed an SUV with the windshield and passenger side window broken out. While other officers were arriving on scene and were being deployed to their positions, Officer Briski said he observed a white male exit the residence holding a grocery bag with his hands above his head. The male was saying “I’m innocent, I’m innocent, I have nothing to do with this.” Officer Briski said the man looked scared. Officer Briski gave this individual surrender instructions and another officer detained him and later brought him to the command post. The male was later identified as TB.



Officer Briski said a short time later, Michael Caponigro's brother, TC, called the Communications Center. This call was transferred to Officer Briski. Officer Briski estimates that he spoke to TC for five minutes. TC advised Officer Briski that he had been talking to Michael Caponigro for the last few minutes and that Michael Caponigro had been having a tough time because their older brother Lou had died a few months prior. TC also told Officer Briski that Michael Caponigro had told him that he was going to "make the police shoot me." Officer Briski forwarded that information to Sergeant Dohms.

Officer Briski states as night fell they began to position squads around the residence and using spotlights to provide light by directing the light onto the residence. Officer Briski said the tactical team was paged to arrive and that he knew Sergeant Wise was negotiating with Michael Caponigro over the phone. Officer Briski recalls hearing over the radio that Caponigro was "getting pretty agitated" over the spotlight directed at his front window. Officer Briski recalls transmissions regarding Caponigro's threats to "shoot at officers" and that he "had someone in his sights" and that he was going to get on his motorcycle and get into a pursuit during which they'd have to engage in a gunfight.

Officer Briski said that Caponigro would come to the window of the residence and look through regularly to display rude/profane gestures or to display a weapon. Near the end of the incident, Caponigro came to the window with what Officer Briski believes to be a long gun slung around his body. Shortly after appearing in the window with the long gun, he appeared to strike the window with the butt end of the gun four or five times. Caponigro was not successful in breaking the window. Officer Briski said that gas rounds were fired through the windows and after that he heard "a shot come out from the window." Officer Briski said that he didn't know if he felt the blast but that he saw glass or something come out of the residence. Officer Briski estimated he was 25 yards from the residence. After the shot from inside the residence, Officer Briski heard a second shot come from behind him. After that shot, Officer Briski heard comments over the radio, including "suspect dropped." At that time, Officer Briski believed that Caponigro was either wounded or killed. Officer Briski said he stayed in position until TRT searched and cleared the residence.

### **TB Interview**

TB was interviewed as part of the investigation. TB advised he is the roommate of Michael Caponigro. TB said he had lived at the residence for the past three and a half years and that Michael Caponigro had lived with him at the address for the past year and a half. TB advised he had known Michael Caponigro for approximately 20 years and felt he knew him well. TB said he did know Caponigro's relationship with CB was very volatile. TB said Caponigro and CB would always argue aggressively but that he did not see anything physical take place.

TB said that after Caponigro's brothers Harold and Lou passed away, Caponigro took this very hard. This was especially true after Caponigro's brother Lou passed away in the spring. TB said when Michael Caponigro was drinking, he would notice him becoming very depressed and would start saying things like, I think I am going to go and see my brothers, I have nothing here. TB said Michael Caponigro would state at times that he had a dream last night and his brothers were telling him to come and join them. TB said he would tell Michael Caponigro that he needed to go and get help but that Caponigro would just blow him off.

TB said that on Saturday morning (July 22, 2017), he went with friends to Winter, WI for the day. TB said he got home around 8 or 8:30 p.m. When TB got home, he pulled his car into the garage, but noticed the garage door was open and that the door into the house from the garage was open and that the front door was open. TB also saw the grill on outside and that Michael Caponigro was in the kitchen. TB asked Caponigro if he was cooking dinner and received no response. TB said Caponigro was acting very strange and was half dressed. TB asked where CB was. Caponigro responded by saying, "I don't know..things aren't good, and things aren't going to go good here." TB thought that Caponigro and CB had another argument or something due to Caponigro's behavior.

TB said that he went to his room and started to get ready for bed. TB said he was in bed a short time and just about asleep when Caponigro burst into his room and stated "you got to leave, you got to fucking leave now!" TB asked what was going on. Caponigro responded you need to fucking leave now, you need to leave now. Caponigro said it's not going to get pretty here; it's not going to go well. Caponigro said he was done with everything and it's not going to go well. TB asked Caponigro what he meant. Caponigro told TB to just grab his shit, grab everything, grab your phone and get the hell out of here. TB said he did not want to argue with Caponigro so he grabbed his work stuff.

As TB was walking out of his bedroom, Caponigro walks up to him and shakes his hand. Caponigro told TB it's been good knowing you, you have been a good friend, this has nothing to do with you. As Caponigro was walking away, he turned to TB and said, "oh by the way I have your pistol." TB asked for it back and Caponigro declined. TB said instinct told him not to push it and to just leave. TB said he was going to walk into the garage and get in his car and leave. Just before getting to the garage, Caponigro said not to go out of the garage. TB said Caponigro asked him where CB's purse was. TB pointed to the kitchen counter. Caponigro grabbed the purse and put it into a bag he was already holding. TB said that Caponigro then went into the garage. TB said he thought CB was in the garage and that Caponigro must have done something to her. TB said he thought to himself for a minute and then went out the front door. Upon going out the front door, TB said he had all kinds of guns pointed at him and that police were yelling to him to drop what he had in his hands. TB said he dropped everything to the ground. TB said he was told to walk over to another house and was told everything was going to be okay. TB said the police were very professional.

TB said the police asked for Caponigro's phone number. TB was also asked to draw a sketch/layout of the house. TB said a short time later, Caponigro called him on his cell phone. TB answered the call and put the call on speaker phone. TB told Caponigro that he was in a squad car. Caponigro apologized and stated this was nothing about him. TB asked Caponigro to put the gun away and come out. Caponigro responded by telling TB he had been a great friend and that this has absolutely nothing to do with you. Caponigro told TB that he was not coming out of there. TB said this was the last conversation he had with Caponigro.

TB said he told the police about the shotgun and where the ammunition was located. TB said that Caponigro might also have a hunting rifle in his room as well. TB said he heard an officer say that Caponigro was breaking the screen out with a long gun through the window. TB said then "I heard a shotgun blast and then I heard another shot, the next thing I heard was head shot." TB said it got very quiet after that. TB said for what it was worth, from his perspective the police did everything they could. TB said it was hard because Caponigro was a friend. TB also said he felt bad for the officer and hoped he was doing okay. TB said in hindsight, when he was in the bedroom, he saw all of the titles to Mike's vehicles but did not pay any attention to them. TB said Caponigro knew what he was doing by taking the pistol and shotgun out of his room.

### **Sergeant Andrew Wise Interview**

Sergeant Andrew Wise was interviewed as part of the investigation. Sergeant Wise advised that he has been with the Eau Claire Police Department for ten years. He was promoted to Patrol Sergeant in 2014 and for the past eight years has been the coordinator for the Crisis Negotiation Team. On July 22, 2017, Sergeant Wise was incident command for the traffic detail for a music festival in town (Country Jam). While working, he was informed of an incident involving a welfare check of an armed man. Sergeant Wise said he started calling in negotiators to respond to the police department. Multiple individuals responded while Sergeant Wise gathered more information from the Communications Center.

Sergeant Wise said that during the incident he participated in phone calls with Michael Caponigro between 9:55 p.m. and 11:43 p.m. He said the calls would usually last for 30 seconds to one minute. One call lasted several minutes. Sergeant Wise said he called in 30-50 times throughout the incident. Sergeant Wise believed Michael Caponigro was intoxicated and also armed in that he had displayed a gun to responding officers and had mentioned having a shotgun. Sergeant Wise was worried that Caponigro was going to hurt an officer as Caponigro mentioned several times he was going to shoot the lights out and also made statements about having an officer or officers in his sights.

Sergeant Wise said that Michael Caponigro would go from normal talk to angry/agitated. Caponigro was upset about the lights and would get agitated, paranoid, and angry. Caponigro

usually answered the phone by stating “what do you want” and within seconds would escalate to the point of screaming. Caponigro requested that Sergeant Wise respond to his door and then indicated that he would take Sergeant Wise out. Caponigro never spoke of a peaceful resolution and repeatedly asked officers to leave the house. The last contact with Caponigro was when Caponigro made a comment about gas being deployed into his residence.

As part of the investigation, Sergeant Wise provided a copy of the Crisis Negotiation Team dialogue record. The following are examples of entries in the record.

1. 2205 Michael wants lights off in one minute and said if the lights didn't get turned off, he was going to come out shooting; shooting would include out the front window and if someone came inside, he would shoot his .45 and shotgun.
2. 2214 Michael states that he would take someone out and said that he had someone in his sights (officers) and he would take them out.
3. 2224 Michael indicates that he is armed.
4. 2231 Michael indicates he could see the armored vehicle and was very agitated that it was parked out front.
5. 2238 “Things are going to get bad” and someone was going to get hurt, and that if they came up to the front door, he would take them out.
6. 2250 “Time was running out.”
7. 2301 Michael was going to be coming out on his motorcycle and said that it was running.
8. 2317 “If you want me to come out, get the lights off my door.”
9. 2335 Michael is upset that the lights were still on his residence and he was going to shoot them out. Michael sounded frustrated, as though he had been asking for two and a half hours for the light to come off and that “things are going to get ugly” and that he didn't care what happened, and that “shit was going to happen.” Michael then stated that he was going to shoot out the light in two minutes.
10. 2345 Michael is documented saying, “Are they coming in? Here we go.”

In addition to the dialogue record, Sergeant Wise advised he had used an audio recorder during the negotiations. The following are examples of audio heard over the calls.

1. (When asked if he is injured) “No, I'm not, but somebody's gonna be injured.” Later in the conversation states “I'm going out with a glory.” When Sergeant Wise indicates he doesn't want that to happen, Michael responds “oh it's going to happen.”
2. “I have a job too, and my job is if you fuckers even, if anybody comes in, I'm, I'm shooting. I'm telling you right now, anybody fucking even tries to come into this house, I'm going to shoot.”
3. Michael requests Sergeant Wise to respond to the scene and to his front door. Sergeant Wise asks if he could do so safely and Michael responds “no, you won't, cause I will take you the mother fucker out.”

4. After threatening to come out of the garage with his motorcycle, Michael states “you are going to pay now.”
5. “I’m telling you, I’m not going to do anything wrong but if you don’t take that light off my house in two minutes, shit’s going to happen, I’m telling you right now.”

### **Sergeant Mark Pieper Interview**

Sergeant Mark Pieper was interviewed as part of the investigation. He advised he has been with the Eau Claire Police Department for the past 17 years, including five and half years as a Detective Sergeant. He is part of the Tactical Response Team (TRT) primarily as the head team leader. He also fills in as the lead commander and was in that role during the incident on July 22, 2017. Sergeant Pieper advised that July 22, 2017 was a day off for him and that he was contacted by Sergeant Dohms at 2120 hours. Sergeant Pieper advised he learned Michael Caponigro had been at Country Jam earlier in the night, was intoxicated, and made threats to kill his girlfriend and himself. Caponigro was currently at 4527 Woodford Court #3. Officers performed a welfare check wherein Caponigro displayed a handgun and was agitated, making a statement that this was not going to end well. Sergeant Pieper advised it was determined the TRT team would be called out.

Sergeant Pieper advised that he started making phone calls to other TRT team leaders and that he responded to the area of 4527 Woodford Court to the command post set up at Jeffers Road and Prairie Lane. Sergeant Pieper continued to gather information from radio traffic including that the suspect was banging on the window, was very agitated, and that white smoke was coming from the residence – which was later found to be a grill near the house. As tactical team members arrived, they were given an assigned job or position.

At 2130 hours, stop sticks were placed in front of the garage at 4527 Woodford Court #3 due to Caponigro stating he was going to flee the scene on a motorcycle with a firearm and shoot it out with police as he fled. Sergeant Pieper advised that he considered Caponigro extremely dangerous, suicidal and homicidal to the officers on scene and the public at large. Sergeant Pieper advised the armored vehicle was repositioned to in front of the garage. Sergeant Pieper also contacted the Eau Claire Sheriff’s Department tactical team requesting their armor and personnel. Sergeant Pieper asked the Sheriff’s Department to come up with a less lethal option and a plan for gas deployment. Around this same time, Caponigro told negotiators that “he had an officer in his sights” and could shoot them if he wanted. Sergeant Pieper was concerned for all law enforcement at the scene and asked them to check their positions and find cover.

Under the circumstances, Sergeant Pieper assessed priorities and the protection of the community. Sergeant Pieper had real concerns not only for his personnel but the public as well. Sergeant Pieper knew that Caponigro had a handgun, a shotgun, and possibly a long gun and the ability to use them to harm everyone. Given the totality of the information, Sergeant Pieper

decided to put the gas deployment plan into action with the Eau Claire County Sheriff's Department immediately.

During this time, Caponigro was demanding that the lights be turned off that were illuminating the front of the house. Sergeant Wise advised that Caponigro had given a two minute deadline and was very agitated. Sergeant Pieper learned that Caponigro displayed himself in the window and had a sling on his person, believed to be for a long gun. Caponigro was trying to break the window out of the residence. During this time, the County team began gas deployment. Between gas deployment rounds, Caponigro showed himself at the front window with a shotgun. After being advised that Sergeant Henning fired his weapon, Sergeant Pieper advised the armored vehicle to move forward to determine if they could see Caponigro. Eventually a pole camera was used and it was determined that Caponigro was not moving. Sergeant Pieper advised an entry team, with gas masks on, made entry into the residence and confirmed that Michael Caponigro was deceased. Sergeant Pieper provided an operations log for the Tactical Response Team during the incident. Entries begin at 2120 hours and end at 0043 hours. The time listed for the fatal shot to Michael Caponigro is 2345 hours.

## **Sergeant Jesse Henning Interviews**

### **Walk Through Interview July 23, 2017**

As part of the investigation, Captain Kudron and Captain Kloss had contact with Sergeant Jesse Henning on July 23, 2017. A walk-through of the scene was conducted with Sergeant Henning. Sergeant Henning advised he responded to 4527 Woodford Court #3 to assist other tactical members on the call. Sergeant Henning stated he parked his vehicle behind the tactical truck and walked behind the houses across from the incident location with his rifle to get into position. Sergeant Henning said he observed Officers Olson and Walden and that he set up his rifle next to Officer Olson. Sergeant Henning said that Officer Walden was acting as an observer. Sergeant Henning said that he set the magnification of his rifle scope to the lowest level to observe the front door and window of the residence. Sergeant Henning stated there was movement in the window along with three loud thuds. This was followed by an observation of a male subject holding a long gun in his hands. Sergeant Henning fired his rifle one time after the male subject raised the long gun. Sergeant Henning recalled being in the prone position for about 30 minutes prior to firing his rifle. Sergeant Henning pointed out where the shell casing was ejected.

### **Second Interview July 25, 2017**

Sergeant Henning was interviewed on July 25, 2017, as part of the investigation. Lieutenant Blokhuis and Captain Kudron conducted the interview. Sergeant Henning advised that he is a Sergeant with the Eau Claire Police Department and had been a full time officer with the

department for nine years. He is currently assigned to the patrol division as a Sergeant and has been in the position since January of 2016. In addition to his duties as a Patrol Sergeant, Sergeant Henning has specialties and was assigned in the following areas: Honor Guard (7 years), Gang Unit Police Training Officer (7 years), Police Training Officer Supervisor, TRT Team (Tactical Response Team 5 years), and worked in the Detective Bureau for four years prior to his current position. Sergeant Henning also summarized his other training.

Sergeant Henning advised that he finished work on Friday, July 21, 2017, went home and had a normal night's sleep. He advised he awoke at approximately 6 a.m. on Saturday, July 22, 2017 and participated in a golf outing that began at approximately 8 a.m. Sergeant Henning advised that he did consume alcohol during the golf outing. However, Sergeant Henning advised that when he was called out as part of the tactical unit during the incident, he was not impaired. Sergeant Henning said that he would not have responded to the call-out if he had been impaired. As part of the investigation and protocol, Sergeant Henning participated in a blood draw following the shooting. The test results came back negative for the presence of any alcohol or drugs.

Sergeant Henning said he was first contacted in reference to the incident at 4527 Woodford Court via a page he received from Sergeant Pieper. The page stated that all tactical personnel were needed for a suicidal/homicidal subject who was barricaded. The page stated for them to respond to Jeffers and East Prairie Road and to contact Sergeant Pieper. Sergeant Henning said he responded to the police department and went to the equipment room to obtain his TRT gear. While walking to the tactical room, he observed Sergeant Wise in the command office. He noted Sergeant Wise appeared to be negotiating. Sergeant Henning learned that the suspect had kicked his roommate out of the residence and that they were in the process of assembling a team to respond to that location. Sergeant Henning said he obtained his tactical gear, changed into his tactical uniform. After obtaining all of the needed equipment, he responded to the scene at 4527 Woodford Court. While en route, he was listening to radio transmission. He learned that the initial responding officers who confronted the suspect were shown a handgun by the suspect.

Upon arrival at the scene, Sergeant Henning made contact with Sergeant Pieper. Sergeant Henning consulted Sergeant Pieper for his assignment. After conversation, it was decided that Sergeant Henning would take position with Officer Olson. Sergeant Henning put on all of his equipment and confirmed Officer Olson's position near the 4526 Woodford Court residence. Sergeant Henning was told by Sergeant Pieper that the suspect was continuing communications with the negotiator, Sergeant Wise. Information from Sergeant Wise was that the negotiations were not going very well and were not very successful. The suspect continued to be agitated; there was information that he had kicked his roommate out via gunpoint and that he had access to other long weapons including a shotgun and hunting rifle. In addition, information was received that the suspect had threatened to shoot and kill police officers.

Sergeant Henning advised at 4526 Woodford Court, he made contact with Officer Olson and Officer Walden. Both officers provided similar intelligence that Sergeant Pieper had provided about the suspect. Sergeant Henning advised that prior to setting up and taking the prone position, he did go through a checklist procedure that he normally does. Sergeant Henning advised that due to the darkness, the front of the residence was illuminated. Officer Olson and Sergeant Henning discussed which areas each would be covering while Officer Walden acted as a spotter and rear cover for each of them.

Sergeant Henning and Officer Olson again confirmed the information that had been learned from Sergeants Wise and Pieper, as well as from Officer Olson who had been on scene shortly after the incident started. While covering the residence, they were advised by Sergeant Wise that while negotiations were going on, they were not going well. The suspect had hung up on negotiators and 911 dispatchers several times and that the suspect continued to be agitated. Sergeant Henning advised he learned from Sergeant Pieper that the suspect planned to come out "blazing." Sergeant Henning believed this meant the suspect was going to come out and shoot at him and other officers. Information was learned that a motorcycle could be heard running inside of the suspect's garage. The concern at this time was the suspect was planning to leave the scene and shoot it out with the police. Sergeant Pieper at this time advised the ARV to move across the garage to block the entire garage door. Sergeant Pieper advised the motorcycle was not to leave due to the high risk of both public and law enforcement safety.

Sergeant Pieper advised the suspect exhibited behaviors of being homicidal/suicidal and had concerns for the safety of the public as well as the risk of death to officers at the scene. Sergeant Henning advised that with all of this information, he knew the situation was very serious and needed to protect himself, other law enforcement, and the community from having great bodily harm done to them. Sergeant Henning advised he continued to coach Officer Olson and advised that the incident was getting very tense. Sergeant Henning advised that the house was re-illuminated. When this took place, the suspect demanded the light be shut off or he would shoot the light out. Negotiators also advised that suspect stated he had his sights on officers and would not hesitate to shoot them if the lights were not turned off. Sergeant Henning advised the light did not get turned off and continued to illuminate the house.

Sergeant Henning advised that with the information from the suspect stating he had his sights on officers, it became a significant safety concern and threat. Sergeant Henning was unsure if the suspect was referring to either himself or Officer Olson because he might be able to see them near the light. Shortly after that, Sergeant Pieper came across the radio and stated the suspect had provided a two-minute countdown. Sergeant Henning advised a two-minute countdown is never good for tactical reasons because this usually means the suspect is about ready to make a move and possibly create harm to everyone in the area. Sergeant Henning reset his position and continued to cover the house. Officer Olson advised that he saw



movements in the window and it appeared the suspect was moving the blinds once again. Sergeant Pieper advised that a plan to deploy gas was in place and that the gas was going to be delivered by the Bearcat from the Eau Claire County Sheriff's Department from the rear of the house.

Sergeant Henning said that he and Officer Olson both observed the suspect moving back and forth in the living room from one side to the other. These observations included a sling on the suspect's shoulder and that the suspect had a long gun. It was confirmed the suspect was inside the residence by himself. A few moments later, Sergeant Henning again observed the suspect in possession of a long gun. Sergeant Henning heard three loud bangs from the residence. Information he received was that the bangs were coming from the Sheriff's Department deploying gas into the rear of the residence. While hearing these bangs, Sergeant Henning observed the suspect come to the front window and attempt to hit the window with the barrel of the gun in an attempt to break the window. The window did not break and the suspect moved away from the front of the window.

Sergeant Henning heard Officer Olson say the suspect had a gun. Sergeant Henning also made the same observation. Sergeant Henning observed the suspect lift his weapon in the upward motion, pointing the gun towards him. Sergeant Henning believed himself and others were in danger of great bodily harm or death. Sergeant Henning heard a shot go off from the suspect's weapon. In observing the suspect lift the weapon, and hearing the shot go off, within a split second, Sergeant Henning pressed the trigger of his weapon and fired at the suspect. Sergeant Henning observed his round hit the suspect and the suspect fell immediately in a straight down manner. Sergeant Henning continued to look inside of the residence but could not locate the suspect. Sergeant Henning, as well as Officer Olson and Officer Walden relayed information about the shot and that the suspect was down. Sergeant Pieper asked on the radio for the status of the suspect and Officer Walden stated "subject down." Sergeant Pieper asked and was told which officer took the shot. Sergeant Pieper advised to continue to cover the residence to determine if there was any other movement inside the residence. Nothing was observed.

Sergeant Henning advised after he shot, he observed a small hole in the window from what he believed to be his shot and a large hole in the front window from the suspect's shot. Sergeant Henning believes these observations were documented with photographs. After the ARV moved into position, Sergeant Henning placed his weapon on safe and stood up. Sergeant Henning left his weapon at the same spot he had taken the shot. A glove was placed near the spent round. A few minutes later, Officer Ruppert came to the location and both he and Officer Ruppert went behind Officer Ruppert's squad car. Sergeant Henning said he hunched over, put his hands on his head and between his knees continuing to breathe and cough. After a few minutes, Sergeant Henning left all of his belongings behind and walked with Officer Ruppert to the tactical truck. Sergeant Henning said he was reassured by other officers but was not asked

any questions. A few minutes later he was taken to the Eau Claire Police Department where he was photographed. Sergeant Henning then said he was taken to the hospital for a blood draw.

Sergeant Henning was asked how he felt after taking the shot. Sergeant Henning stated he felt sick about it, but knew he had to do it. Sergeant Henning said he had to protect himself and others from great bodily harm or death from the suspect's actions. Sergeant Henning said he did not recognize the suspect nor had he ever dealt with him. Sergeant Henning said he had never been to 4527 Woodford Court during his regular patrol duties.

### **Officer Jacob Olson Interview**

Officer Jacob Olson was interviewed as part of the investigation. Officer Olson advised he has worked for the Eau Claire Police Department for the past five years in the patrol division. In addition to those duties, he is assigned to the Tactical Response Team (TRT). He is also a Taser Instructor as well as a drone operator. Officer Olson advised that on July 22, 2017, he responded to several calls on his shift and was working on a call when he heard a request for more officers from Officer Wutschke over the radio. The request was to respond to 4527 Woodford Court in regard to a man with a gun. Officer Olson could tell from the tone of Officer Wutschke's voice that the call for more officers was important, so he cleared his current call.

Officer Olson advised that when he arrived at the residence of 4526 Woodford Court, he met up with Officer Walden. Officer Walden was observing 4527 Woodford Court from the southwest corner of the residence. Officer Olson deployed his rifle and charged it, making it call ready. During the incident, Officer Olson was advised that the suspect had access to long guns and most likely did have a long gun in his possession. Officer Olson was able to observe the suspect through the front window. After that, the suspect came to the front door and held up his middle finger through the glass towards him and other officers who were in the area.

Officer Olson advised that when an armored vehicle arrived on scene, he attempted to find a new location due to the obstruction of that vehicle. As the incident went on, nightfall started and it began to become dark. Additional information was learned that the suspect was about to leave on his motorcycle and was going to have a shootout with police. While this was going on, officers could hear a motorcycle running in the garage. The armored vehicle then moved backwards to cover the garage. During this time, Sergeant Henning arrived on scene and set up near his position. Officer Walden turned the spot light of Officer Ruppert's squad onto the front of the house to re-illuminate the front of the house. Once this took place, the suspect demanded the lights be turned off or he would shoot the light out. Further radio traffic stated the suspect had threatened violence to officers and others, stating he had a cop in his sight and could shoot him. Radio transmissions indicated the suspect demanded the lights be shut off in two minutes or he would come out of the residence shooting. Further information was received that the suspect spoke with his brother and indicated that he wanted to have a shootout with

police and that things would not end peacefully. With this information, Officer Olson knew the incident was growing more serious.

Officer Olson advised that a plan was in place for the Eau Claire Sheriff's Department SWAT team to utilize gas. Officer Olson observed the suspect through the blinds of the residence with a sling over one shoulder. He could also see the suspect pacing back and forth in the residence and observed a long gun in the suspect's hands. Officer Olson received information that the gas would be deployed into the rear of the house. When Officer Olson heard the gas being deployed in the rear of the house, he observed the suspect come to the front window and attempt to break the window out by striking the butt of his gun against the window several times. The window did not break. Following this, the suspect stood in front of the window in a squared-up position. The suspect took the long gun, pointed it in an upward and outward position from the front window. Officer Olson observed a muzzle blast and heard and observed the sounds of glass breaking towards him and other officers. Officer Olson heard one shot from the suspect's gun.

Officer Olson advised that due to the fear of his safety, namely great bodily harm to himself or others, he pulled the trigger of his rifle. Officer Olson said he heard the rifle click, but the weapon did not fire. Officer Olson assumed the weapon had a malfunction and he went through a malfunction drill to clear the malfunction. Officer Olson advised that within a second of him pulling the trigger of his weapon that he heard Sergeant Henning fire his gun. After this shot, he heard over the radio that the suspect was down. Officer Olson came back on the scope and was no longer able to see the suspect standing in the residence. Officer Olson said he stayed at his location with Officer Walden until they were relieved of their duties. At the command post, they were asked to respond back to the police department.

### **Officer Marcus Walden Interview**

Officer Marcus Walden was interviewed as part of the investigation. Officer Walden advised he has been a police officer with Eau Claire for two years and served with the military police for six years. He is also part of the Tactical Response Team (TRT) and has attended basic SWAT school. On July 22, 2017, he was working as a patrol officer in the north district. He overheard a welfare check on the radio and heard one officer state that the subject had a gun. Officer Walden advised that upon hearing this, he immediately drove to the scene, met up with Officer Olson, and took over as an observer for him across from the residence. During the incident, Officer Walden observed the subject hit the window with the barrel of a gun and also saw the subject peek out of the window multiple times. Officer Walden said that when Sergeant Henning arrived on scene, he set up a few feet to Officer Olson's right.

Officer Walden said communication from Sergeant Wise indicated the subject was calming down but then escalated. The subject hit the window and hit the blinds causing a few to fall

down. The subject was also in possession of a long gun. Officer Walden could see the subject talking on the phone multiple times. After the armored vehicle moved to prevent the subject from leaving on a motorcycle, the gas was started in an effort to get the subject to surrender. Officer Walden was positive he saw the barrel of a long gun and a short time later, the subject shot out the window. Officer Walden saw the subject shoot out the window and felt debris hit him. After this, Sergeant Henning fired his rifle. Officer Walden advised after the shot, he did not see any more movement inside the residence.

### **Officer Jacob Gullickson Interview**

Officer Jacob Gullickson was interviewed as part of the investigation. He advised he has been with the Eau Claire Police Department for five years and that he is on the Tactical Response Team. Officer Gullickson said on the night of the incident he responded to the scene and was first deployed to the southwest corner of 4526 Woodford Court. After the arrival of the armored vehicle, he took a position on the west side of that vehicle. Officer Gullickson advised that he deployed stop sticks along the garage exterior of the shut garage door to prevent the subject from leaving in a vehicle or on a motorcycle. As negotiations continued, Officer Gullickson advised he was behind the rear passenger tire of the armored vehicle. Loud hail (verbal commands) continued from the armored vehicle and Officer Gullickson advised he could see the front window blinds moving. Officer Gullickson advised it was determined the Sheriff's Department would deploy gas to the rear of the residence.

Officer Gullickson advised that he heard several verbal commands from the armored vehicle informing the subject that they were the police and the subject should come out with his hands up. At one point the subject was visible through the front window and had a sling. As gas was being deployed, Officer Gullickson said he heard one round that was distinct coming from the front area of the home. Officer Gullickson said he was within 25-30 feet of the house and could feel broken glass coming over the top of the armored vehicle. Within seconds, Officer Gullickson heard one more shot which was believed to be return fire. Officer Gullickson believed this because he knew where others were positioned. After the shooting, Officer Gullickson approached on the front sidewalk with a shield and blocked the front window as other officers deployed a pole camera and were able to see the subject inside of the residence. Officer Gullickson advised that the door was barricaded by a "lazy boy" chair. The door was forced open and the chair had to be pushed out of the way. The team put on gas masks and made entry to clear the residence. Officer Gullickson advised that he observed multiple weapons and ammunition inside of the residence, including a weapon alongside of the subject's body.

## **Sergeant Benjamin Frederick Interview**

Sergeant Benjamin Frederick was interviewed as part of the investigation. He advised he has been with the Eau Claire Police Department for 12 years and been part of the Tactical Response Team for 10 years. On the night of the incident, Sergeant Frederick was responsible for retrieving the armored vehicle with Officer Aldrich and responding to the scene with said vehicle. Sergeant Frederick said the armored vehicle was “staged” in the front yard of the residence with the intent to provide protection for other officers in their positions. During the incident, Sergeant Frederick advised that he saw Caponigro come to the window with an item he believed was a shotgun sling around his chest. Sergeant Frederick confirmed that after Caponigro threatened to leave the residence on a motorcycle and engage in a gunfight with officers, the armored vehicle was repositioned by the garage to limit escape routes.

Sergeant Frederick advised that the County’s Tactical Response Team arrived at the east side of the residence in an armored vehicle with the intention of implementing a gas plan. When the County team advised it was ready, Sergeant Frederick began giving commands to Caponigro over the armored vehicle’s “loud hail” public address system. Sergeant Frederick advised the following command was constantly given: “Occupants inside 4527 Woodford Court apartment #3...come to the front door with your arms raised and your hands empty...do it now.” Sergeant Frederick could hear the County team deploying gas into the residence. At this time, an officer advised that Caponigro had armed himself with a long gun. With this information, Sergeant Frederick varied his loud hail address to state: “Occupant inside needs to DROP THAT GUN...comply...come out with your arms raised and your hands empty.” Sergeant Frederick advised he gave this command numerous times for a minute or so.

Sergeant Frederick advised that he looked out the passenger side front windshield of the armored vehicle and observed Caponigro attempting to smash out the front window with the butt of his long gun. Caponigro was unsuccessful. Shortly after, Sergeant Frederick observed the front window of the residence “break outward.” Sergeant Frederick said he heard a pretty muffled gunshot at about the same time as well as an officer outside of the armed vehicle yell that he had been struck by the glass. Sergeant Frederick believes Caponigro had shot out from the apartment. Quickly after that, a round entered into the apartment and this was confirmed by radio information. Sergeant Frederick advised that this all happened within a few seconds.

## **RC Interview**

RC was interviewed as part of the investigation. RC is the daughter of Michael Caponigro. RC said that Michael Caponigro called her around 8:45 p.m. Caponigro was slurring his words and sounded like he was crying. Caponigro told RC that he loved her. RC asked Caponigro what he was doing and why. Caponigro advised that he had been drinking and that he wanted to go

be with Harold and Lou and to leave him alone. RC asked Caponigro to put the gun down and come out. Caponigro responded “no” and hung up.

RC stated that a short time later, Caponigro called back. RC asked him to put the guns down. Caponigro said “no” and that he was going out guns a blazing. RC told Caponigro that if he did that, they are going to shoot you. Caponigro again stated that he needed to be with Harold and Lou. After a few more comments, Caponigro hung up the phone. RC said this was the last time she spoke with Caponigro.

### **BC Interview**

BC was interviewed as part of the investigation. BC is the daughter of Michael Caponigro. BC said that Caponigro suffered from some sort of depression. BC said her father could become angry and that alcohol was the normal catalyst. BC confirmed that Caponigro had attempted suicide in the past. BC confirmed that she did speak with Caponigro on the night of the incident. BC said that Caponigro was crying and kept saying “I’m done, I can’t deal with this anymore.” BC said that Caponigro explained that he was at home, that the “cops were here,” and that “I’m not coming out of this.” BC said that Caponigro told her he loved her and that he had to go and then hung up.

### **RR Interview**

RR was interviewed as part of the investigation. RR is the stepson of Michael Caponigro. RR advised that he usually communicated with Caponigro on a daily basis. RR said that on Saturday (July 22, 2017), Caponigro called him around 8 p.m. and was talking crazy. RR heard Caponigro and CB arguing. Caponigro told RR that he had all of the titles signed, there was money in a safe for him to take care of everything. Caponigro told RR that he loved him and to take care, then said bye and hung up. RR stated that after this he called the Eau Claire Police Department.

RR said that he had additional contact with Caponigro. RR traveled to the residence on Woodford Court and made contact with a police officer. While waiting to talk to the officer, RR had additional phone contact with Caponigro. Caponigro said he was at his residence. RR said that Caponigro was talking in circles, making no sense and repeated statements about the vehicle titles.

### **Interview of TC**

TC was interviewed as part of the investigation. TC is the brother of Michael Caponigro. TC advised that he was contacted on July 22, 2017 about 8 p.m. in regard to something going on with Michael Caponigro in Eau Claire. TC advised he attempted and made phone contact with

Michael Caponigro. TC advised that Caponigro's speech sounded slurred and that he was agitated. Michael Caponigro immediately stated that he was going to have the police shoot him and that he was going to be with Lou and Harold. TC asked Caponigro why he wanted to do that and told him he needed to speak with him about this and put down the guns and come out to comply with the police. TC said that Caponigro advised "no, I'm not going to do that" and then hung up on TC. TC advised that he called the Eau Claire Police Department to inform them of the information he obtained from Caponigro.

TC advised that Harold and Lou were brothers to he and Michael Caponigro. TC advised that when Harold died, Michael attempted suicide by taking an overdose of sleeping pills. Then, in March of 2017, Lou passed away and Michael Caponigro became extremely emotionally depressed and was definitely not himself from that point on out. TC advised that when Caponigro drinks heavily, he is mean, insulting, and agitated. TC advised that about a month prior to the incident, TC started posting old photos of Harold and Lou on Facebook. He also placed quotes from Robin Williams in reference to depression and mental health awareness. TC advised he was not surprised by the outcome of the incident in that Caponigro had called to say goodbye and told TC that he was going to have a shootout with police and that police were going to have to shoot him.

### **Search of Michael Caponigro Residence**

As part of the investigation, Michael Caponigro's residence was searched pursuant to a search warrant. A shotgun was located near Michael Caponigro. The shotgun had a spent round in the chamber and two rounds in the magazine. A .45 handgun was found on the kitchen counter. The handgun had one round in the chamber and eight rounds in the magazine. Additional shotgun rounds were found on the table behind the couch, as well as on the kitchen counter near the handgun, as well as an additional box on the bed with eleven more rounds. The ammunition box is a 25 round box when purchased new. The number of live/spent rounds that were found in the residence equals 25 (11 rounds in the box, 5 rounds on the end table, 6 rounds on the kitchen counter, 2 live round in the shotgun, 1 spent round in the shotgun).

Also located in the residence were three titles on Michael Caponigro's bed that appeared to be signed by Michael Caponigro. The titles were for a 2004 Dodge Ram, a 2005 Mitsubishi Eclipse, and a 1969 Pontiac.

### **Paramedic / EMS Interview**

Shawn Willi of the Eau Claire Fire Department was interviewed as part of the investigation. Willi advised that he is a firefighter/paramedic and has been with the Eau Claire Fire Department for two years. Willi advised that on July 22, 2017, he was dispatched to the area of Prairie Lane and Alpine Road to stage for a patient who was suicidal. Willi explained that he was on standby for

approximately three hours. After receiving information that a person was shot and was down, Willi said Medic 5 was brought into the cul-de-sac, wherein they waited about fifteen minutes while the house was being cleared. Willi explained he was escorted into the house to assess the patient. Willi stated the patient was lying on the ground and that they were unable to find a pulse. Willi said they administered a 3-lead EKG and it indicated no activity on the EKG monitor. Willi stated that based on all of the information and the obvious signs of death, they ended their assessment and exited the house.

### **Michael Caponigro Autopsy Report**

As part of the investigation, an autopsy on Michael Caponigro was performed on July 24, 2017 by Dr. Michael Stier, a forensic pathologist and the University of Wisconsin hospital in Madison. The autopsy contains a section entitled "Interpretive Statement." The section reads: "The decedent died of firearm injury during an engagement with law enforcement. The autopsy findings support the injury was sustained after the projectile (bullet) passed through an intermediary target, possibly glass." Among the findings in the autopsy with respect to firearm injury include: "There is a complex atypical firearm entry wound to the anterolateral left neck. This wounding with associated abrasive component measures 10.5 x 7 cm overall." Additional testing was also done as part of the investigation. The results of these tests showed that Michael Caponigro had a blood alcohol concentration of .173 at the time of his death.

### **Use of Force Justification**

After a review of the investigation performed by the City of La Crosse Police Department, I have concluded that City of Eau Claire Police Sergeant Jesse Henning was justified in the use of lethal force on July 22, 2017 during the incident that resulted in the death of Michael Caponigro. The circumstances that existed lead to the conclusion that the use of lethal force was justified. The analysis of this determination includes, but is not limited to, the following information:

1. In the months prior to July 22, 2017, Michael Caponigro had lost a close relative. He had made many comments in response to losing the relative that he wanted to be with said relative – a clear indication that he was thinking of his own death. Multiple individuals who were interviewed as a part of the investigation confirmed that Michael Caponigro had made statements about wanting to join his deceased relatives. In addition to verbal statements, Michael Caponigro also undertook other actions that indicated his plan to die. These include, but are not limited to, signing over vehicle titles, talking about his own impending death, as well as the potential death of others, including police officers and his girlfriend.



2. Michael Caponigro displayed extremely troubling behavior at the music festival Country Jam on July 22, 2017. He spoke of his girlfriend in the past tense, and indicated he was going to kill her and then himself. His behavior was so concerning that his girlfriend exited the vehicle that she and Michael Caponigro were in while Caponigro was driving the vehicle. CB then immediately approached Detective Don Henning of the Eau Claire County Sheriff's Department and reported the concerning behavior of Michael Caponigro.
3. Following the report from Detective Don Henning from the grounds at Country Jam, two City of Eau Claire police officers performed a welfare check on Michael Caponigro at his residence. Michael Caponigro's concerning behavior continued and included, but was not limited to, yelling obscenities at the officers, showing a handgun, and indicating verbally that the situation would not end well.
4. After the attempted welfare check by the City of Eau Claire police officers, Michael Caponigro went into his residence, refused to come out as directed, and eventually took steps to barricade himself in the residence. During a several hours long standoff with law enforcement, Michael Caponigro called multiple individuals and continued to make suicidal/homicidal comments.
5. Police negotiators spent hours attempting to talk with Michael Caponigro and bring the incident to a peaceful resolution. In response to these efforts, Michael Caponigro became more angry, continued to threaten law enforcement, including statements that he was going out in a blaze of glory, that he had officers in his sights, and that he would shoot police officers.
6. Michael Caponigro took part in several phone calls during the standoff. He had final phone calls with both of his daughters, his stepson, and his brother wherein he told each goodbye. He also specifically told his brother that he was going to have a shootout with police and that the police were going to have to shoot him.
7. Given these statements and the surrounding circumstances, law enforcement attempted to utilize gas deployment in an effort to have Michael Caponigro exit the residence. In response, Michael Caponigro used a shotgun to shoot through a window of a residence. This shot resulted in law enforcement being hit with projectiles, including the broken glass from the window.

8. Given the information provided to law enforcement regarding the circumstances of July 22, 2017, as well as the actions of Michael Caponigro during the standoff with law enforcement – in particular the firing of the shotgun at law enforcement out of the window of the residence, Sergeant Jesse Henning had reason to fear death or great bodily harm to himself. This fear was applicable not only to himself, but to other fellow law enforcement officers on scene.
9. Multiple officers, including Sergeant Henning, saw Michael Caponigro with a long gun and saw him raise the long gun and point it at officers before firing a shot out of the window. This action by Caponigro was consistent with his earlier comments that he would shoot at police officers. This action by Caponigro was also consistent with his earlier stated plan that the police would have to shoot him.
10. The decision by Sergeant Henning to use lethal force was justified under the circumstances that existed at the time Sergeant Henning fired his weapon. Michael Caponigro had just fired a shotgun at law enforcement after hours of comments and communications of suicidal/homicidal nature.

I would like to thank Captain Shawn Kudron and the City of La Crosse Police Department for performing a complete investigation into the incident that took place on July 22, 2017. The materials submitted as part of the final investigation provide a clear and unambiguous accounting of the events of July 22, 2017. The details of the investigation clearly support that City of Eau Claire Police Sergeant Jesse Henning was justified in the use of lethal force given the circumstances on July 22, 2017.

Thank you for your time and consideration of this information.

Gary King  
District Attorney  
Eau Claire County

**Eau Claire Police Department**  
**Standard Operating Procedures**  
**Armored Rescue Vehicle Use**  
(Effective May 15, 2017)

**Armored Vehicle Operation**

The Eau Claire Police Department Armored Rescue Vehicle (ARV) will only be used in accordance with these procedures. Operation of the Vehicle must be in accordance with ECPD policy at all times.

**Deployment**

The ARV is intended for use during critical incidents, planned or unplanned events within the community, and trainings. Tactical Response Team (TRT) Command will approve the use of the ARV unless a critical incident or event is rapidly developing and waiting for such approval is impractical.

The ARV will only be driven by approved personnel who have received training in the vehicle's operation. A second person (spotter) should also staff the vehicle when driven (unless an emergency situation makes it impractical to do so).

Approved Deployment situations

- An active critical incident within the City of Eau Claire involving the use or potential use of firearms, where the use of the ARV will aid in stabilizing the situation. These requests should be directed to the OIC. Approved drivers of the ARV who are closest to the current location of the vehicle shall respond and prepare the vehicle for deployment.
  
- An active or planned incident involving ECPD TRT. These deployments shall be coordinated by ECPD TRT Command.
  
- A mutual aid request from another jurisdiction for an active critical incident. The decision to use the ARV shall be made by ECPD TRT Command as soon as practical. These requests should be approved by the Chief of Police or the Chief's designee unless otherwise impractical. Approved ECPD drivers should be used to deploy the vehicle to the incident.
  
- A mutual aid request from another jurisdiction for a planned event. These requests should be directed to ECPD TRT Command. This request shall be approved by the Chief of Police or the Chief's designee unless otherwise impractical.
  
- Planned community events. Requests for use of the ARV at pre-planned, community events should be directed to ECPD TRT Command. The use of the ARV at a planned community event shall be approved by the Chief of Police or the Chief's designee.
  
- Routine preventative maintenance and operation. A maintenance and operation schedule will be maintained on an annual basis by ECPD TRT Command to ensure this weekly maintenance and operation occurs.

Any use of the ARV should be approved by ECPD TRT Command (unless obtaining approval is impractical). The Chief of Police or Chief's designee will be notified promptly of any ARV use (other than for maintenance/repair).