



**DANE COUNTY
DISTRICT ATTORNEY
ISMAEL R. OZANNE**



**PRESS RELEASE
For Immediate Release**

Date: 12-10-2024

**NO CRIMINAL LIABILITY FOR CITY OF FITCHBURG
POLICE OFFICER INVOLVED IN SHOOTING INCIDENT
ON 08-12-2024**

After briefings by investigators, an inspection of the scene shortly after the incident, a review of summary reports, diagrams, surveillance and bodycam video, and other evidence, the Dane County District Attorney's Office concluded on Tuesday, December 10, 2024, that there is no potential criminal court liability for the City of Fitchburg Police Officer involved in the shooting incident in the City of Fitchburg on August 12, 2024.

In this incident, just before 8 a.m., 911 dispatch received a call in which the caller, who did not identify themselves, sounded somewhat out of breath and indicated there were no-contact orders in place and that the other individual tried to break his neck. The caller then said never mind and hung up. Dispatch called back. When the call is answered the same breathing could be heard for a brief moment, then nothing.

City of Fitchburg Police Officers, dressed in full military style uniforms, were dispatched for a 911 disconnect to the area of 807 Whispering Pines Way in an attempt to make contact with the caller. Officers did not get a response at 807 Whispering Pines Way. Law enforcement had information that two individuals living at the address had no-contact orders in effect regarding each other, and there had been prior calls for service to the address for domestic disturbances and a call involving an individual armed with a knife.

A citizen witness indicated that they saw an altercation between two individuals and one of the subjects had called out for "help." The witness further stated that the two individuals entered 807 Whispering Pines Way and the vehicles associated with them were still in the parking lot.

Law enforcement attempted to contact individuals a second time at 807 Whispering Pines Way with no answer. This time it was noted that blinds had been closed since the last attempted contact. Officers continued to knock and announce their presence. In an attempt to check the safety of individuals in 807 Whispering Pines Way, officers forced entry. Once inside the residence officers came into contact with Deluna. Officers asked Deluna where Kevin Price was and he indicated Price was in the closet of their bedroom. When asked if Price was armed he said Price had a knife.

Officers cleared a bathroom and a bedroom at the end of the hall and then entered the bedroom. Officers directed Price to show himself and to come out of the closet. Once Price began to stand up and exit the closet officers asked him if he had a knife and Price responded that he did. Officers repeatedly directed Price to stop and to drop the knife. Price opened the folding knife and proceeded to exit the closet area moving toward the officers as they continued to direct him to stop and to drop the knife. Price began to climb over clothes and other items with the open knife in his right hand.

Two officers were standing on the bed in front of the closet that Price was exiting with the knife. One officer had a less than lethal device and the other officer had lethal coverage with his handgun pointed in the direction of the closet that Price was located in. When Price didn't comply with commands to stop and to drop the knife, officers fired both force options. Price was hit with multiple bullets in the chest area and fell back into the closet area. Price was told to drop the knife which he indicated he no longer had. Officers then carried Price out of the residence to begin administering life saving measures. Price was transported by Emergency Medical Services (EMS) to an emergency room for treatment.

"A knife is a dangerous weapon and poses a grave danger of great bodily harm and/or death to an individual. A person who is armed with a knife who does not follow directions to drop the weapon and stop as directed by police may pose a threat of great bodily harm and/or death to officers," said Dane District Attorney Ismael Ozanne. "Responding to that threat with deadly force is permitted under the law."

Relevant evidence includes statements of officers at the scene, scene diagrams, evidence collection, surveillance and bodycam video, which are consistent with each other.

Under Wisconsin law, which applies equally to members of law enforcement and to those who are not, any person may use deadly force to respond to a genuine fear of deadly force to that person or any other person. In this case, the officer was compelled to use deadly force when confronted by a person armed with a knife who did not comply with directions to drop the knife and continued to move toward officers.

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The role of the District Attorney's Office in a case of this type is limited to a review of the facts to determine whether further investigation is merited and, after all available evidence is obtained, whether criminal charges could be merited for any individual who has survived the incident. Police executives and supervisors have the exclusive responsibility of establishing appropriate training and protocols for use in response to crisis events, and of selecting from among the tactical options available to police in responding to particular events.

Now with the passage of Wis. Stat. § 175.47 there is also a question of compliance with said Statute. This critical incident involved a City of Fitchburg Police Officer who was responding to a 911 disconnect and was attempting to check the safety of individuals at a residence located at 807 Whispering Pines Way when an individual produced a knife opening the blade while moving in the direction of officers.

This investigation was conducted by the Wisconsin Department of Justice Division of Criminal Investigations (DCI) and is in compliance with the statute. In the case of a death caused by an officer, the statute requires that at least two investigators from outside agencies or agencies not involved in the critical incident/Officer Involved Shooting (OIS) lead the investigation:

(3)(a) Each policy under sub. (2) must require an investigation conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.

The City of Fitchburg Police Department requested DCI conduct the investigation in compliance with said statute as this was a critical incident involving a firearm where a death occurred.

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