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Milwaukee County

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November 13, 2018

Sheriff Richard Schmidt
 Milwaukee County Sheriff
 821 W. State Street
 Milwaukee, WI 53233

Re: Use of Force Incident Involving Deputy Michael Truax

Dear Sheriff Schmidt:

This letter summarizes the conclusions of this office regarding the June 11, 2017 use of force by Deputy Sheriff Michael Truax, which resulted in death to Terry Williams. For the reasons indicated below, I find that Deputy Truax lawfully used deadly force in this incident.

The setting for this event was the area near the intersection of Lincoln Memorial Drive and Water Tower Road. As is customary during the summer months, this immediate area was populated by hundreds of people accessing the lakefront on foot, in vehicles, and on bicycles. At approximately 7:40 p.m., Deputy Sheriff Marlyn Tinsley attempted to stop a 2007 Audi driven by Williams for a Failure to Obey Sign violation after Williams exited through the marked entrance to a parking lot on the north side of Lincoln Memorial Drive. Video camera from the squad car driven by Tinsley shows that Tinsley slowly followed Williams' vehicle through heavy traffic southbound a short distance on Lincoln Memorial Drive before Williams turned right to head west on Water Tower Road. Traffic remained heavy on this road as it stretched up a hill toward North Avenue. After progressing a short distance, Tinsley activated the lights of his marked squad car and, using the public address system from his squad, directed Tinsley to turn his vehicle out of traffic toward a small paved service driveway on the right hand side of Water Tower Road. Tinsley voiced this command over the loudspeaker two times. A passenger in the Audi later reported that she was aware of the police squad behind the vehicle that ordered Williams to pull over out of traffic.

Williams did not comply with Tinsley's directive and instead turned the Audi to the left, crossed oncoming traffic and drove over a curb onto a grassy area of the hill. Tinsley followed Williams and activated his siren as Williams drove through the grass southbound toward Lincoln Memorial Drive. After quickly pulling out onto the roadway, Williams then drove over the median of Lincoln Memorial Drive and began driving northbound. Heavy car traffic filled both directions of the roadway. Williams

then drove northbound onto the median separating the north and south bound lanes and approached the intersection of Lincoln Memorial Drive and Water Tower Road.

Deputy Michael Truax was assigned to foot patrol on the lakefront, and standing in a parking area to the east of this intersection as he observed Williams drive his vehicle away from Tinsley through the grass and back onto Lincoln Memorial Drive. Truax ran to the intersection of Lincoln Memorial Drive and Water Tower Road, drew his service firearm and approached Williams' Audi, repeatedly ordering him to stop. Williams continued to drive northbound, first on the median, and then quickly swerving toward the left, nearly striking Truax in the process. Truax fired his weapon toward Williams eight times in approximately three seconds, ultimately fatally wounding him in the head. Williams' car swerved back to the right and stopped after striking a car adjacent to it. This incident was captured by the camera in Tinsley's squad car. There was other video evidence collected during the course of this investigation from officers of the Sheriff's Department as well as from civilians at the scene.

This matter was investigated by the Waukesha County Sheriff's Office, which responded to scene that evening and undertook a highly professional and comprehensive investigation of the entire incident in the days and weeks thereafter.

Deputy Truax ultimately gave a statement to investigators from the Waukesha County Sheriff's Office. He indicated that he has patrolled this area of the lakefront on prior occasions and knows the area to be heavily populated during the summer months, particularly on the weekends. Truax stated that as he observed Williams drive his vehicle off road and onto the grass, he decided to intervene because he was concerned about the safety of others in the area, noting that people often congregate on the grass, walk on the sidewalks, ride bicycles and cross the roadway near this intersection. Truax indicated he believed there were thousands of people in the area of this intersection and that any of them were in danger of death or great bodily harm as Williams drove his vehicle away from a marked squad car with activated lights and siren. As he intervened, Truax observed Williams swerve his vehicle toward him and he believed his own life was in danger as he fired shots toward the vehicle.

A toxicology report generated through the autopsy of Williams revealed the presence of opiates and marijuana in his system at the time of his death.

Wisconsin Statutes Section 938.48(1) states as follows:

A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily

harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

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

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

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

The evidence in this case supports the use of force by Deputy Truax under these circumstances. Williams made the conscious decision to avoid being stopped by a marked squad car with activated lights and siren. Instead of following an officer's express order to pull his vehicle out of traffic, he drove off the road into a grassy public space often occupied by pedestrians. Williams continued driving through this public space and over a sidewalk back onto Lincoln Memorial Drive. Although there were no people in the immediate pathway of Williams' vehicle at the time he drove off of the roadway, his action displayed his willingness to potentially endanger others in an effort to escape being pulled over. Similarly, Williams' sudden driving over the median of Lincoln Memorial Drive as the roadway was filled with traffic indicated a reckless disregard for the safety of others. Finally, Williams' driving northbound again onto the median toward the intersection of Lincoln Memorial Drive and Water Tower Road indicated reckless disregard for the many other cars and people surrounding him. It was reasonable for Truax to perceive that Williams presented a danger to those around him by the manner in which he was operating his vehicle in full view and disregard of law enforcement authorities. As Truax intervened personally, his own life was endangered by Williams' continued driving toward him and actually veering his vehicle toward Truax. The evidence in this matter indicates Truax reasonably used deadly force in defense of others as well as himself.

Therefore, this office finds that the force used by Deputy Michael Truax is privileged in self-defense and defense of others and justified under Wisconsin law. Our review of the matter is concluded.

Sincerely,



Kent Lovern
Chief Deputy District Attorney

cc: Attorney Walter Stern
Attorney Christopher MacGillis
Waukesha County Sheriff's Office