



## Madison Police Department

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### Professional Standards and Internal Affairs Summary

February 7, 2020

**Complaint Number:** 2019PSIA – 0197

**Date of Occurrence:** October 27, 2019

#### Summary:

On October 27, 2019 MPD officers were involved in an officer involved shooting in the 6500 block of Raymond Road. In accordance with State Law, MPD requested that an outside agency conduct the initial investigation into the shooting. The Wisconsin Department of Justice's Division of Criminal Investigation (DCI) responded and was responsible for investigating the incident. A synopsis of the DCI investigation is attached.

On December 24, 2019 Dane County District Attorney Ismael Ozanne released a statement finding no criminal liability on the part of officers involved in the incident. That statement is attached.

The Madison Police Department's Professional Standards & Internal Affairs section conducted a review of the incident, to determine whether the personnel involved complied with MPD's Code of Conduct and Standard Operating Procedures. That review is complete, and all involved employees were found to have acted in compliance with the department's *Use of Deadly Force* and *De-escalation* standard operating procedures. The review did yield three minor equipment-related violations of MPD standard operating procedures (one officer did not have his wireless microphone appropriately synced with the in-car video system in his vehicle; two officers did not have the appropriate number of rounds in their rifle magazines).

Victor Wahl  
Acting Chief of Police

**INVESTIGATIVE SYNOPSIS OF THE OFFICER INVOLVED DEATH (OID) OF DEAN G. THOMAS**

On Sunday, October 27, 2019, at approximately 9:15 p.m. the Dane County Communications Center received a 911 call. The caller was slow to talk to them, but subsequently stated there was a guy shooting a gun outside the building at 6526 Raymond Road. Dispatch relayed the following information to responding officers...“the caller was unable to give a description of the suspect, and sounded out of breath”. The 911 caller, later identified as Dean G. Thomas, was subsequently determined to be the same person as the “guy outside the building” he had reported.

Law enforcement officers were dispatched to the location. Upon arrival, law enforcement officers did not locate anything pertaining to the call. Dispatch then advised officers that the phone number of the caller was associated with Thomas at the address of 6526 Raymond Road Apt. #5. Officers indicated they were not finding anything outside and were going inside the building to make contact with apartment #5. The City of Madison Police Department officers involved in the shooting incident were Officers Justin Nelsen, Joe Buccellato, Sonny Martinez and Sergeant Ryan Gibson.

Law enforcement officers entered the unlocked main door on the south side of the building and entered the vestibule area. The inside door was secured and locked. Officers buzzed apartment 5 utilizing the electronic door buzzer. While waiting at the door, officers were able to look inside through a glass panel and could see a set of stairs which led to the upstairs level of 6526 Raymond Road. Officers could see Thomas come walking down those stairs, holding a black handgun in his right hand.

Law enforcement backed out of the apartment in order to get distance. Thomas continued to walk down the stairs in the direction of the officers.

Law enforcement gave Thomas multiple verbal challenges in a loud voice, directing him to “Drop the gun!” “Drop it!” Law enforcement continued to yell, “Stop, drop the gun!”

Thomas ignored law enforcement commands to drop the gun and continued walking aggressively towards officers with the handgun in his right hand. Thomas was then seen bringing the firearm up and pointing it in the direction of law enforcement. Thomas fired his weapon; officers observed the muzzle flash and heard as the gun was being fired in the direction of law enforcement. Officers reported fearing for their own lives and the lives of others, and fired their firearms until the threat had been stopped. The investigation determined that the officers fired at Thomas at 9:25 p.m. Once it was deemed safe to approach Thomas, officers rendered lifesaving aid, assisted by EMS personnel. Thomas was transported by ambulance to the University of Wisconsin-Madison hospital, where he was later pronounced deceased.

At approximately 9:46 p.m., the Division of Criminal Investigation (DCI) received a request from the City of Madison Police Department (MPD) for assistance related to the officer-involved death

**Wisconsin Division of Criminal Investigation Case Report**  
**Case/Report Number: 19-6597/44**

at 6526 Raymond Road, in Madison, Dane County, Wisconsin. DCI Special Agent (SA) Lourdes Fernandez was assigned as the lead investigator, and SA James Holmes was assigned as the secondary investigator. The Wisconsin State Patrol Traffic Reconstruction Unit (WSP TRU) assisted with the investigation and created a scene diagram. The Wisconsin State Crime Laboratory Crime Scene Response Team (CSRT) collected evidence from the scene.

The Madison Police Department maintained security of the scene until the scene was cleared on October 28, 2019.

Family members of Dean G. Thomas were identified, and a death notification was made by Cape Coral (Florida) Police Department in coordination with Dane County Medical Examiner's Office Investigator Ashley Page. Wisconsin Crime Victim Services forms were also provided to the family.

On October 29, 2019 DCI agents conducted interviews with Madison Police Officers Nelsen and Buccellato. On October 30, 2019 DCI agents conducted interviews with Madison Police Officer Martinez and Sergeant Gibson.

A neighborhood canvas was conducted by DCI and the Madison Police Department; approximately fourteen people were interviewed during the neighborhood canvas.

Video from four squad cars was obtained and reviewed by DCI. Body cameras are not issued by the Madison Police Department; therefore, none of the responding officers were wearing body cameras. No security cameras were located in the area.

Evidence included one officer rifle, two officer handguns, one semi-automatic pistol, numerous cartridge casings, metal fragments, unfired bullets and magazines. All evidence was transmitted to the Wisconsin State Crime Laboratory.

An autopsy of Dean G. Thomas was conducted at the Dane County Medical Examiner's Office on October 28, 2019 by Chief Medical Examiner Dr. Vincent Tranchida, and was attended by DCI SA Marshall Ogren. As of this date the final autopsy report has not been received by DCI.

On Wednesday, November 27, 2019, the completed investigative file as of that date was turned over to Dane County District Attorney Ismael Ozanne for review.



# DANE COUNTY DISTRICT ATTORNEY ISMAEL R. OZANNE



**PRESS RELEASE**  
**For Immediate Release**

**Date: 12/23/19**

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## **NO CRIMINAL LIABILITY FOR LAW ENFORCEMENT OFFICERS INVOLVED IN SHOOTING ON 10-27-19**

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After briefings by investigators, the Medical Examiner's (ME) Office, an inspection of the scene shortly after the incident, a review of summary reports, diagrams, and other evidence, the Dane County District Attorney's Office concluded Monday, December 23, 2019, that there is no potential criminal court liability for the City of Madison Police Officers involved in the shooting of Dean G. Thomas, in the City of Madison, on October 27, 2019.

"In this incident the officers were faced with a subject who was armed with a handgun, and who was not responding to commands while advancing upon them before firing in the officers' direction," said Dane County District Attorney Ismael Ozanne. "Responding to that threat with deadly force is permitted under the law."

Officers responded to a 911 call indicating a man was shooting a firearm outside of 6526 Raymond Rd. in the City of Madison. The initial information from dispatch indicated a man had called from 6526 Raymond Rd. #5. Dispatch was disconnected and called back when the male caller indicated that a guy was shooting a gun outside the address he had given previously. Dispatch was disconnected and called back in an attempt to get more information for responding officers.

The first two officers to respond parked a short distance from the reported address and moved on foot towards the caller's indicated address. Two more officers arrived shortly after parking their squads near the first two squads also continuing on foot. The first two officers reached 6526 Raymond Rd. and checked the area around the building seeing and hearing nothing which correlated to the description from the caller. The first two officers requested the address of the caller from dispatch so they could attempt to make contact. They then entered 6526 Raymond Rd. to make contact with apartment #5, the address given by the caller. While in the entry way they saw a white male later identified as Dean G. Thomas coming towards the entrance from the second floor holding a black handgun in his right hand. Both officers began to back out of the building and began to give verbal commands for Mr. Thomas to drop the weapon.

The second two officers reached 6526 Raymond Rd. as the first two officers were exiting the building, giving commands to drop the weapon. Mr. Thomas exited the building and continued to advance towards officers who had moved to the left (west) of the entrance of the building. Mr. Thomas continued towards the officers not responding to verbal commands. Mr. Thomas raised his right hand with the handgun and fired in the direction of

the officers. Three of the four officers returned fire. One officer with an AR15 rifle and two officers with 9mm handguns. The officer who didn't return fire indicated he had feared for his life and the life of the other officers but did not have a clear shot as other officers had moved between Mr. Thomas and himself making it impossible for him to return fire without endangering other officers. Mr. Thomas was hit multiple times dropping the handgun and falling to the ground. Officers secured Mr. Thomas, moved the gun away and began to render lifesaving measures while requesting EMS.

Relevant evidence includes statements of officers at the scene, ME's findings, scene diagrams and evidence collection, 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 officers were compelled to use deadly force when confronted by a person armed with a handgun that was not complying with commands, advancing upon them and firing at them.

\* \* \*

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 four City of Madison Police Officers who were responding to a call of a man firing a gun outside of a residence. Once they arrived they encountered an individual armed with a handgun who would not respond to verbal commands and who advanced on and shot at officers. This investigation was conducted by the Wisconsin Department of Justice's Division of Criminal Investigation (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.*

This investigation was conducted in compliance with the statute. The determination by this office that no criminal liability is possible is clearly warranted based on the consistent evidence that has been assembled since the incident and during this ongoing investigation.

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