Racine County
WISCONSIN

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April 19, 2023

Sheriff David Zoerner
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Sheriff Christopher Schmaling
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Superintendent Tim Carnahan
Colonel David Fish
Hill Farms State Office Building
4822 Madison Yards Way, 9th Floor South
Madison, WI 53705

RE: Department of Criminal Investigations Case 23-452
Officer Involved Death of Hunter Hanson, January 16, 2023

Dear Sheriffs and Superintendent,

When there is a use of deadly force by a police officer, Wis. Stat. sec. 175.47(5) requires that the District Attorney review the incident and determine whether a privilege under Wisconsin Law applies. If the use of deadly force was privileged, no charges are filed. If it was not privileged, a decision should be made to charge the officer criminally.

> Wis. Stat. sec. 175.47(5)(a) The investigators conducting the investigation under sub. (3) (a) shall, in an expeditious manner, provide a complete report to the district attorney of the county in which the officer-involved death occurred. (b) If the district attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the investigators conducting the investigation under sub. (3) (a) shall release the report, except that the investigators shall, before releasing the report, delete any information that would not be subject to disclosure pursuant to a request under s. 19.35 (1) (a).

The privilege to use force is governed by legal standards set forth in the 4th Amendment and subsequent case law from the United States Supreme Court. That case law has been adopted by Wisconsin at Wis. Stat. sec. 939.45 (2017-2018).

> §939.45 Privilege
> "The fact that an actor's conduct is privileged, although otherwise criminal, is a defense to prosecution for any crime based on that conduct. The defense of privilege can be claimed under any of the following circumstances:
>
> 1. When the actor's conduct occurs under circumstances of coercion or necessity so as to be privileged under §939.46 or §939.47; or
> 2. When the actor's conduct is in defense of persons or property under any of the circumstances described in §939.48 or §939.49; or
> 3. When the actor's conduct is in good faith and is an apparently authorized and reasonable fulfillment of any duties of a public office; or
> 4. When the actor's conduct is a reasonable accomplishment of a lawful arrest."
> 5. *(sic)* Parental Privilege
> 6. When for any other reason the actor's conduct is privileged by the statutory or common law of this state.

It is within these legal standards that I will examine the facts presented to me in this case to determine if on January 16, 2023, the conduct of the 11 officers who discharged weapons that led to the death of Hunter Hanson, was a privileged use of force under one of the reasons outlined above. If not a privileged use of force, should the officers be charged with a crime.

USE OF FORCE AND OFFICER TRAINING

In Wisconsin, every new police officer must go through the same training at an approved police academy. The Wisconsin Department of Justice develops and approves the curriculum for these academies via the Wisconsin Law Enforcement Standards Board.

Defensive and Arrest Tactics (DAAT) is a training used Nationally and in Wisconsin to instruct officers on how to protect suspects, themselves, and others by encouraging

voluntary compliance with lawful commands. The first paragraphs of the training manual describe the purpose of the method.

> As a law enforcement officer, you will come in contact with people in a wide variety of contexts. Some encounters are much like ordinary social or business contacts. In some situations, however, your duties may require you to exert control over people by giving them orders, directing their movement, or even taking them into custody. Your goal always is to get subjects to comply voluntarily. If they do, you will have achieved your objective without making the encounter unnecessarily adversarial and without any risk of injury to officer or subject.
>
> Unfortunately, even the best efforts of the most skilled officer to gain voluntary compliance do not always work. Sometimes you will have to use physical force to achieve control and accomplish your legitimate law enforcement objective. In Defensive and Arrest Tactics (DAAT), you will learn when and how to use physical force to control people. DAAT techniques are psychomotor skills, which mean that they involve both the brain and the muscles. For that reason, you will spend much of your time in DAAT actually practicing the techniques—learning the skills first in isolation, and then eventually applying them in simulations. But before you learn how to use force, you must learn when it is appropriate to use force. *Defensive and Arrest Tactics: A Training Guide for Law Enforcement Officers. Wisconsin Department of Justice Law Enforcement Standards Board, June 2017, Page 1.*

The DAAT Training Manual teaches intervention options for Law Enforcement Officers who are involving themselves in a lawful stop or arrest. They are divided into five modes, each reflecting the need for an increased level of force to gain control. Although the intervention options are divided into five modes, an officer can begin with any mode and move from one mode to any other mode as appropriate—intervention options are not necessarily a sequential progression. Officers are authorized to use the amount and level of force that is reasonably necessary to control a subject. If dialog—talking with a person—is enough to control him or her, then an Officer need not use more force. On the other hand, some situations may be so extreme that an Officer needs to use deadly force. The five modes each serve a different purpose and include different tactics and techniques. *DAAT Training Manual at Page 13:*

1. Presence

   The first mode, Presence, reflects the fact that sometimes all that is needed to control a situation is the presence of an officer. The purpose of this mode is to "present a visible display of authority."

2. Dialogue

   The second mode, Dialogue, covers the range of tactical communication from very low-level questioning to very directive commands. The purpose of dialogue is to persuade subjects to comply with an officer's lawful directives.

3. Control Alternatives

   The third mode, Control Alternatives, includes a wide range of tactics and tools for controlling subjects. These are divided into four groups: escort holds, compliance holds, control devices, and passive countermeasures. This mode includes both empty-hand techniques such as applying an escort hold or directing a subject to the ground and tools such as Oleoresin Capsicum (OC) spray, commonly called “pepper spray,” and electronic control devices (ECDs) also known as Tasers. The common thread is that all these tactics and tools are used to control subjects who are resisting or threatening to resist.

4. Protective Alternatives

   The fourth mode, Protective Alternatives, include tactics and tools to protect an officer while also overcoming continuing resistance. The tactics include focused strikes that temporarily disrupt a subject’s ability to continue to resist or assault, a diffused strike that can cause an immediate—though temporary—cessation of a subject’s violent behavior and the use of baton strikes to impede a subject. The difference between Protective Alternatives and the Control Alternatives category just discussed is that with Protective Alternatives the purpose is not only to control the subject, but also to protect the officer.

5. Deadly Force

   The fifth mode, Deadly Force, represents the highest level of force available to law enforcement officers.

There are five key rules for use of force, *DAAT Training Manual at Page 11*:

1. The purpose for use of force is to gain control in pursuit of a legitimate law enforcement objective. If verbalization is effective in gaining control, it is always preferable to physical force.

2. You may initially use the level and degree of force that is reasonably necessary to achieve control. You need not escalate step-by-step through the intervention options.

3. At any time, if the level of force you are using is not effective to gain control, you may disengage and/or escalate to a higher level of force. This involves transitioning to a different level of force or different tactics based on the totality of circumstances.

4. Once you have gained control of a subject, you must reduce the level of force to that needed to maintain control.

5. You must always maintain a position of advantage.

STATEMENT OF FACTS

On January 16, 2023, there was a lawful bench warrant outstanding for Hunter Hanson in Racine County Case Numbers 19CF87. Hanson was charged with Possession of a Firearm by a Felon, Disorderly Conduct, Attempted 1st Degree Intentional Homicide, Fleeing and Eluding, and 2nd Degree Recklessly Endangering Safety. The criminal complaint alleged that Hanson intentionally attempted to hit a known police officer with his vehicle. Hanson was arrested in that case on February 15, 2019, and was in custody until September 14, 2022. $20,000 cash was posted as bond and Hanson was released from jail with a GPS monitor and a condition of house arrest.

On December 11, 2022, Hanson was away from his work and home driving when he fled on foot from a police traffic stop. Hanson was not located and removed his GPS ankle monitor. At that time, Hanson was being monitored by the Department of Corrections who also issued a warrant for his arrest that was active on January 16, 2023. Hanson during that time became a person of interest in a Burglary that was reported in the City of Burlington.

At approximately 3:30pm on January 16, 2023, a tip was received that Hanson was driving in a gray pick-up truck near the Racine/Walworth County lines. The tip with the description of the truck was given to a member of a United States Marshall's service who was in the area in an unmarked car. The U.S. Marshall located Hanson and called his location into the Racine County Communications Center.

Three marked squads from the Racine County Sheriff's Office located the U.S. Marshall and Hanson driving and attempted a traffic stop near State Highway 83 and County Highway JB, which is a county line road between Racine and Kenosha Counties. Hanson fled from the marked squads, reaching speeds of over 100 miles per hour and ignoring multiple stop signs at various intersections of county highways. The pursuit eventually led northbound on U.S. Highway 45. Hanson appeared to intentionally drive

off the roadway eastbound just south of County Highway KR, into a plowed field in Kenosha County.

The suspect vehicle continued traveling in the farm field in a northeast direction to where a tree line was located east of USH 45. A creek was located within that tree line, and when the gray pick-up truck got to the tree line, the gray pick-up went into the creek and the truck was disabled as it was no longer moving. After the suspect vehicle crashed into the creek and became disabled, the deputies who had followed Hanson into the field lined up their fully marked squad SUV vehicles with the emergency lights activated in order to conduct a high risk traffic stop of the truck that was located in the creek.

Deputies observed an individual run in a north easterly direction from the crashed gray pick-up truck in the creek who was later identified as Hanson. Hanson was wearing a dark or black jacket with a dark or black hat and was carrying something in one of his hands which appeared to be a bright green handgun. At the time that Hanson fled on foot into the fields, it was intermittently raining and misting, making visibility and field conditions difficult. Hanson was quickly located out in the middle of a plowed field and dozens of officers from Racine County, Kenosha County and the Wisconsin State Patrol responded to the area.

A perimeter was established and two officers from the Racine County Sheriff's Office, Deputy A. Rooney and Deputy A. Lacombe, made contact with Hanson and began to try and engage him in dialog to descalate the situation to bring a non-violent resolution to the incident by taking Hanson into custody. The first contacts with Hanson were made out in the field at approximately 3:45pm and he was shot at 5:25pm.

Over the next one hour and forty minutes, deputies and troopers were surrounding Hanson on three sides, many out in the open field with only ballistic shields as cover. Throughout the entire encounter in the field, Hanson was armed with a SCCY CPX-1 .9mm semi-automatic handgun that was loaded with a round in the chamber and a fully loaded magazine. The handgun was black and bright green in color and a black fabric holster was found with Hanson. No evidence of Hanson discharging his weapon was located.

In the hour and forty minutes in the field, officers ordered, negotiated, and plead with Hanson to put down his weapon and surrender. It was Deputies Rooney and Lacombe who kept a dialog with Hanson and used their best efforts to try and persuade Hanson to comply with their commands. Investigators from the Department of Criminal Investigations meticulously watched and transcribed all of the body worn camera video recovered that night. Their reports document what can be heard on the videos from the body worn cameras. The following were things said and done by the officers to try and persuade Hanson to surrender.

- Offers to contact a woman Hanson requested to speak to
- Offers to buy and let him smoke cigarettes
- Reminding Hanson that he had a family who cared about him
- Offering him an opportunity to call his family
- Downplaying the seriousness of the consequences of his pending cases
- Reminding Hanson he was young and would still have a chance to turn things around and live a productive life

- Pleading with him to put the gun down and surrender
- Offering him water
- Offering him warm clothes and a blanket
- Assuring Hanson that no one present wanted to harm him or harm to come to him\

Hanson made it clear with his words and his actions that he was not going to be taken back into custody. Hanson made it known that he believed that failing to surrender his weapon would lead to a fatal outcome for him. Hanson can be heard saying:

- “Are you ready?“
- “Do you have your shot”
- “It is 50/50 if I am going to surrender”
- “I have two choices, heaven or hell”
- “If you take the shot, I’ll be happy”
- “You are all going to kill me tonight”
- “Fuck it. Do you all want to go?”
- “Do you all want to settle it?”
- “I’m 50/50 on what I’m gonna do, but I’ve made my mind up, you guys better get in position and be ready”

Racine County Sheriff Sgt. Patla was interviewed the night of the incident. He was at the scene in a supervisory capacity. Sgt. Patla brought a less lethal bean bag rifle with him to the scene, and later gave it to Deputy Lacombe. Sgt Patla remained on the scene and described the last five minutes to DCI Investigators as follows:

> In the last 5 minutes, the subject appeared to become more agitated and again pulled the gun out from his pocket and began making statements that this is how it was going to end tonight. The subject began looking around and swinging the gun back and forth vertically from the ground upward slightly. The deputies had flashlights directed at the subject and the subject would then approach the deputies briefly and then move to his right or left a few feet. Less lethal was not deployed due to the distance from the subject. Patla at some point relinquished the less lethal shotgun to Deputy Lacombe who was in front of him and Patla took over command operations.
>
> It was becoming dark and it was misting out. The subject moved in a box fashion approximately 60 yards from the deputies, who had no cover other than the singular shield in the open field. Other deputies had arrived and were within the group overseen by Patla. During this time, the subject was facing towards Patla and his group and it appeared the subject may have pointed the firearm in

> their direction but Patla and the deputies couldn't definitively see due to the lighting and weather conditions. It was clear the subject did have the firearm in his hand when he subsequently turned and it could be observed more clearly which then indicated he had pointed the firearm in the direction of Patla's element. Patla stated it appeared the subject was taunting law enforcement by continuing to be more aggressive in his movements with the firearm toward the deputies. Patla also recalled the subject making a statement to the effect of "they didn't teach you this in the academy." The subject then made another motion raising the firearm up toward Patla's element and law enforcement fired at the subject.

None of the armed officers fired the first time Hanson pointed the gun at them, showing their restraint and willingness to use less lethal options. Hanson pointed the gun at officers a second time and began to close the gap between them. The second time, Hanson had both hands on his gun pointed at the line of officers surrounding him. Eleven officers fired at Hanson: Racine County Deputies A. Rooney, A. Lacombe, K. Saini, C. Olson, A. Lozano, T. Venegas, and N. Schmaling. Kenosha County Deputies N. Moro, J. Wilson and B. Lyyski and Wisconsin State Patrol Trooper D. Tann.

In addition to Hanson’s weapon at the scene, the State Crime Lab Evidence Collection Team identified evidence in 6 areas. There were 76 spent casings located on scene, 73 were spent rifle rounds and 3 were less lethal shot gun spent casings. No projectiles were recovered on the scene or at autopsy.

An autopsy was conducted and during the autopsy, Dr. Linert from the Milwaukee County Medical Examiner’s Office pointed out the locations of three separate gunshot wounds on Hanson. Each of the gunshot wounds had an entry and exit point. Final autopsy results are pending, awaiting toxicology results. Once the autopsy was completed Dr. Linert explained his findings of the gunshot wounds to Hanson as follows:

LEFT HAND:

Entry wound on the outside back of the index finger (where it meets the hand)

Exit wound on the same finger, palm side

The bullet travelled from the back side of the hand to the front, straight through at an upward angle.

The bullet made contact with skin, soft tissue and bone.

RIGHT BUTTOCKS

Entry wound on the right buttocks

Exit wound on the right inner thigh, groin area

The bullet travelled from back to front, right to left at a downward angle

The bullet made contact with skin and soft tissue, grazing the testicles and penis causing lacerations and scrapes.

HEAD

Entry wound to the back left of the head

Exit wound on the top of the head, left of midline

The bullet travelled from back to front, left to right

The bullet made contact with the scalp, dura and brain.

Located inside the truck Hanson was driving was a Motorola Tracfone, a white chunky substance in clear plastic bag from center console that weighed 9.8 grams and field tested positive for the presence of cocaine base, and one orange pharmacy bottle containing pills from center console described as follows: 1 Blue oval pill with the imprint "GG 258" - a query of Drugs.com identified this pill as Alprazolam 1mg, 1 White rectangular pill with the imprint "GG 249" - a query of Drug.com identified the pill as Alprazolam 2mg, 15 Beige oval pill with imprint "e 505" and "20" - a query of Drugs.com identified the pill as Amphetamine and Dextroamphetamine 20mg.

Summary

In the days leading up to Hanson’s death, he was in a very desperate situation. After spending three years in jail awaiting trial on attempted homicide charges, Hanson was released, but had skipped bond and cut off his GPS monitor. Hanson made it very clear to everyone interviewed from the scene of his death, that he was choosing not to go back to jail. His actions and words evidenced his intent to take his own life, either by his own hand or by forcing law enforcement to take his life. This mind set, combined with Hanson’s possession and use of the firearm, created a situation where the officers were forced to react to his behavior with deadly force to protect themselves and each other, despite their best efforts to avoid it.

Officers on scene used their training and experience to do what they could to deescalate the situation with Hanson to avoid having to use lethal force. There were consistent orders and requests for Hanson to drop his weapon. The expectations of what Hanson needed to do were clear and repeated with no room for misunderstanding. The officers were patient and showed great restraint. Less lethal equipment was available and used by officers. Officers from different agencies and counties came together and worked seamlessly towards a common goal. Concern for Hanson and his wellbeing was balanced equally with the desire to execute the arrest warrant. All of the officers who discharged their weapons did so with the disadvantage of the weather, the change in visibility from day to night, and the significant challenge their distance from Hanson presented. Importantly, those officers who fired their weapons indicated that once Hanson was down, they stopped shooting as they no longer perceived Hanson to be a threat.

Lastly, once Hanson was injured, there was almost no delay in rendering him aid at the scene. The same officers who fired at Hanson were the first ones there trying to save his life. A Kenosha County Tactical Emergency Medical Services (TEMS) unit was already on scene with an off-road vehicle equipped to provide care and transport to trauma services from locations like the field where Hanson was located. If the officers were just there to take a life, I would have expected a different response.

For these reasons, no charges will be filed against any officers in this case. My deepest sympathies go out to the Hanson family for their loss, but legally and ethically, this is the decision I must come to in this case. The officers in this case were privileged to use the force that they did, pursuant to Wisconsin Law, and there will be no charges filed against them.

Dated this 19th day of April, 2023.

Patricia J. Hanson
Racine County District Attorney