



July 2, 2012

District Attorney

Phillip A. Koss
District Attorney

James C. Holmes, Special Agent
Wisconsin Department of Justice
Division of Criminal Investigation
P.O. Box 7857
Madison, WI 53707-7857

Joshua P. Grube
Deputy District Attorney

RE: John Brown Death Investigation
DA Case No. 2012WL1639

Diane M. Donohoo
Zeke S. Wiedenfeld
Haley J. Rea
Assistant District Attorneys

Dear Special Agent Holmes:

Loretta S. Meinel
Victim/Witness Services

Please be advised that I have reviewed all the reports from the Walworth County Sheriff's Department and the reports from your agency, the Wisconsin Department of Justice, Division of Criminal Investigation. I also visited the scene, and spoke to a number of the officers who were present at the time. It is my opinion, based on all the information provided to me so far, that the shooting of Mr. Brown by Walworth County Deputy Sheriff Wayne Blanchard was privileged and in the use of either self defense or defense of others, pursuant to section 939.45 and 939.48, Wisconsin Statutes. Please let me explain.

I know from the reports that Deputy Blanchard, along with Deputy Chris Such responded to Mr. Brown's residence at the request of his mother, Nancy Brown, who called 911 and told them: "I have a son who's trying to commit suicide."

I think it is important to provide a short time line of that evening. These facts are based on reports your agency has compiled, so please refer to them for complete details.

We know that Mr. Brown had been drinking that night with a friend. That friend said that Mr. Brown seemed "down" about a lot of things. Mr. Brown was there from about 8:00 p.m. to about 10:30 p.m. The autopsy stated Mr. Brown's blood alcohol level was .182%.

We know that Mr. Brown engaged in a number of text messages with a former girlfriend and her current boyfriend. These messages went back and forth from 9:37 p.m. until 10:57 p.m.. In those messages Brown expresses anger with both of them.

Judicial Center
1800 County Road NN
PO Box 1001
Elkhorn, WI 53121
262.741.7198 tel
262.741.7200 fax

Brown claims to want to fight the boyfriend. He also texts both of them, in multiple messages, saying he hopes their child "*dies.*" The girlfriend was so concerned that at 10:50 p.m. she called the Burlington Police Department to file a complaint. The department then called Brown to tell him to stop.

Mr. Brown called a friend at 11:13 p.m. and left a voicemail stating that he loved him and would be "*looking down*" and "*bye.*"

At 11:30 p.m., Brown called another friend and left a voicemail saying "*I just want it to be done, please tell everyone I love them...*"

At 11:41 p.m., he called a friend. During this phone call, Brown stated he had cut himself and blood was everywhere. He also said "*I'm ending it tonight.*" The friend told him she was calling his mother, Nancy Brown. The friend and Brown also exchanged text and Facebook messages. One message said "*I love you...I won't be able to tell you tomorrow.*" He sent the friend a series of texts that stated:

I'm saying goodbye, I'm sorry, but I can't do this anymore.

Too late.

Good bye.

Leave me alone, it'll make it easier.

Just accept it.

I wont (sic) be able to remember or forget in a little while." This last text was at 11:17 p.m.

At 11:50 p.m., this friend called Mrs. Brown, who lived with her son. Mrs. Brown called 911 at 12:03 a.m., as described above. She also said he had a knife that she was unable to take away and was locked in his room.

At 12:07 a.m., Brown posted on Facebook "*I am so tangled in my sins that I can not (sic) escape*"

Deputy Such arrived at 12:10 a.m., and Deputy Blanchard shortly thereafter. Both are experienced, highly-trained deputies.

Such stated that Mrs. Brown told him what was going on, and that he went down the hallway to talk to Mr. Brown. The Browns lived in a mobile home that has a very narrow hallway leading to Mr. Brown's bedroom. The hallway is only 2.6' wide. Such announced himself to Brown as a deputy, but received no response. Such then asked Brown if he remembered Such from a prior contact, and Brown replied: "*Fuck you.*"

After Blanchard arrived, they decided Such would go outside to Brown's bedroom window. Blanchard remained inside the residence to cover the bedroom door. Deputy Blanchard then opened the bedroom door by kicking it, rather than using the keys given to him by Mrs. Brown. Blanchard's reason was, given that Brown was armed, that Blanchard did not want Brown to know that he was opening the door, thus preventing Brown from being prepared to hurt anyone. This seems very reasonable under the circumstances. This is especially true given that Blanchard heard Mrs. Brown say "why aren't you guys doing anything? My son could be killing himself in there."

When Blanchard opened the door, he observed Brown in the room. He told Brown to show his hands, but Brown did not. Blanchard could see Brown had a knife in his right hand. Brown slammed the door shut. Such returned to the house and was behind Blanchard. Such, too, had taken out his handgun, but when he saw Blanchard had his gun, Such switched to his taser. Blanchard opened the door a second time and ordered Brown to drop the knife. Brown refused and said words to the effect that "*you're going to have to shoot me.*" This was heard not only by the deputies, but Mrs. Brown, as well.

Brown then approached Blanchard with the knife moving in an upright position. Both Deputies describe Brown having a "1,000 yard stare." Brown still advanced on the officers and was within five (5) to six (6) feet when Blanchard fired two shots that mortally wounded Brown. The knife was found by Deputy Timothy Ruskiewicz under Brown's body and fully extended. He described it as a "SWAT" type knife, and I have seen it, as well and agree.

I reviewed the scale diagrams prepared by the Wisconsin State Patrol of the scene. I know that the distance from Brown's computer chair to the door is only about eight (8) feet. The distance from where Mr. Brown was shot and where Blanchard was standing is significantly less.

I have reviewed Mr. Brown's writings as well. They do not greatly factor into what happened because one cannot tell when they were all written. Suffice it to say they were dark and spoke of death, including how he will feel with a bullet inside him, and another that speaks of him being the trigger on the gun.

I am also aware, from prior experience, and from an inquest I conducted on a previous shooting of an individual with a gun, that officers are trained that being within 21' of an individual with a knife is a deadly zone. While that inquest's verdict that the officer committed no crime is not binding here, I believe it reflects the reasonableness of what the deputies did here.

I further believe the fact that two separate deputies reached the same conclusion, that deadly force was necessary, corroborates the reasonableness of Deputy Blanchard's acts. I saw that the Deputies were interviewed independently and by different Special Agents.

I believe that there is no other reasonable conclusion other than Deputy Blanchard was attempting to prevent himself or Deputy Such from being attacked with deadly force. Therefore either Deputy would have been justified to use deadly force in return. I believe that no reasonable juror could conclude otherwise. A taser is less lethal and not effective with an armed person coming at an officer at that short distance. Therefore, not only do I believe that the officer's acts were appropriate, I do not believe that any inquest is necessary in this case.

I know this is a tragic situation. I appreciate the work your agency did on this case, and the sensitivity you have shown to Mrs. Brown, as well. No one involved fails to understand the seriousness of the events of that day. Thank you for your attention to this matter. You may share this letter as you deem appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. A. Koss', written in a cursive style.

Phillip A. Koss
Walworth County District Attorney

c.: Sheriff David A. Graves