

July 19, 2022

Chief Maurice Robinson
City of Racine Police Chief
730 Center Street
Racine, WI 53403

RE: Officer Involved Death of Dashontay King, dob 8/20/84

Chief Robinson,

The following is my analysis of the facts, evidence, and circumstances, surrounding the officer involved death of Dashontay King on May 20, 2022.

STATEMENT OF FACTS

Officer Zachary Brenner, an Officer with the Racine Police Department, attended the Wisconsin Police Academy through Gateway Technical College and graduated in May of 2018. Officer Brenner has been enlisted in the Army Reserves for 6.5 years. Officer Brenner currently holds the rank of Army Specialist. Officer Brenner received the following training while in the Army: Basic AIT training in 2014 and Garrison Policing in 2019. Since 2018 when Officer Brenner became a Patrol Officer, he has received the following training: Instructor Development Courses, Taser Instructor, Gracie Survival Tactics, Crowd Control and SWAT. Officer Brenner passed his last weapons certification in June of 2021 and currently has over 286 law enforcement training hours since 2018.

On May 17, 2022, Officer Zachary Brenner was working as a Community Oriented Policing (COP) Officer for the Racine Police Department. An Investigator from the Racine County Gang Crime Task Force advised Officer Brenner of an active search warrant that had been signed by a Judge, and provided Officer Brenner with a copy of the search warrant. A judge found that there was probable cause to believe that Dashontay L. King, dob 8/84, and/or EAS, dob 5/80,

would be in possession of firearms, despite both being prohibited from possessing a firearm due to prior felony convictions. Probable cause was also found by the judge that a rental vehicle being used by Mr. King and EAS might contain firearms, a gray 2021 Volkswagen Atlas with a Wisconsin registration of AKT8763.

Officer Brenner stated that he reviewed the search warrant and that he recognized the names from other recent shooting investigations where the names had been mentioned as being involved, but that he had never had contact with the two people mentioned in the warrant. Officer Brenner was given photos of Mr. King and EAS, and that he kept the photos of the subjects and a copy of the search warrant with him at all times on the visor of his vehicle. Officer Brenner stated that he also looked up the vehicle type, a Volkswagen Atlas, on Google to make sure he knew what type of vehicle he was looking for.

Officer Brenner stated that on May 20, 2002, he worked the morning short shift and at 12:00 PM he switched to his COP assignment. Officer Brenner was wearing a fully marked police uniform and operating a marked squad car. Officer Brenner was wearing an operational Body Worn Camera (BWC) that captured his encounter with Mr. King.





Officer Brenner stated that at approximately 13:00, he was patrolling the area of the south side Racine at 16th Street and South Memorial Drive, driving north on Memorial when he saw a gray Volkswagen matching the description of the vehicle in the search warrant. Officer Brenner stated that he got behind the vehicle and verified that he had the correct vehicle by matching the registration number listed on the warrant. Officer Brenner stated that he stayed about 4 or 5 car lengths from the Volkswagen as it travelled north on Memorial Drive and then turned east on to 12th Street. Officer Brenner continued on Memorial Drive and turned east on 11th Street, driving parallel to the driver vehicle.

Officer Brenner stated that at this point he called Sgt. Comstock via a phone call on his cellphone and advised him that he had located the vehicle listed in the search warrant and advised Sgt. Comstock of his location. At 12th Street and Washington Avenue, Officer Brenner stated that the Volkswagen was headed east on 12th Street and that he was headed south on Washington Avenue, and that now he could clearly see that there was only one occupant in the vehicle but could not see if the occupant in the vehicle was one of the names listed on the warrant because of the tint on the windows. He saw only a silhouette of one person from the sunlight going through the tinted window.

Officer Brenner stated that the driver vehicle continued east on 12th Street and that he turned onto 12th Street and followed the vehicle again at about 4 to 5 car lengths behind. Officer Brenner stated that when they got to the stop sign at 12th Street and Racine Street, the Volkswagen slowed down and did a rolling stop and as soon as Officer Brenner cleared the intersection, the Volkswagen started picking up speed. Officer Brenner believed that the driver of the Volkswagen knew that he was following him due to the driver increasing speed.

Officer Brenner stated that at this time he used his radio to notify dispatch that he was attempting a 10-38, which is a traffic stop, and notified them of his location of 12th Street and Schiller Street.¹ Officer Brenner stated that he then activated his lights and siren in his squad car. After the lights and siren were activated, Officer Brenner stated that the Volkswagen was going east on 12th Street and then turned north bound into a driveway of a residence in the 900 block of 12th Street.

¹ Condensed recording of 911 transmissions from Officer Brenner. [[Link to 911](#)]



Officer Brenner stated that as the Volkswagen turned into the driveway, he was close behind and observed the vehicle come to a complete stop and then the driver's side door popped open. Officer Brenner stated that the driver got out of the vehicle and could see that he had his hands at his waist band area as if he was holding something. Officer Brenner stated that he immediately thought that driver of the Volkswagen had a firearm. Officer Brenner stated that the driver immediately started running towards the back of the driveway in a north bound direction with both hands still held at the front of his waist band area.

Officer Brenner stated that at this point he could not clearly see the face of the driver to identify if he is one of the two individuals listed on the warrant, but that the driver fit the general physical description of the drivers listed on the warrant from the information that he was given from other investigators. Officer Brenner stated that once the driver ran north through the driveway to the back where there was a berm.

Officer Brenner stated that he turned his siren off on his squad car and left his squad emergency lights on and then began to chase the driver on foot. Officer Brenner stated that because the driver was running and still had his hands at the front of his waist band area, he continued to

believe that the driver was holding a gun. Officer Brenner then pulled his duty weapon out and began yelling commands to stop and identifying himself as a police officer. Officer Brenner stated that as he reached the back of the property the driver began to climb a cinder block wall and berm that divides the property using one hand to pull himself up the wall and his other hand holding something at his waist belt area.

Officer Brenner stated that when he caught up to the driver, he held his duty weapon with his right hand and grabbed the driver's sweatshirt with his left hand, trying to keep the driver from climbing the wall. Officer Brenner stated that he lost grip of the driver's sweatshirt and then holstered his weapon to use both hands to climb up the berm behind the driver. Officer Brenner stated that as the driver continued to climb he continued to yell commands to "stop", "get on the ground", "I'm going to shoot you if you pull it out". Officer Brenner stated that when he yelled he was going to shoot him if he pulled it out, he meant that if the driver pulled a gun out, because Officer Brenner felt that the driver was holding a gun with his other hand at his waist.

Officer Brenner stated that he never lost sight of the driver as he was climbing up the wall and then when Officer Brenner reached the top of the wall that the driver was still holding his front waist band area. Officer Brenner continued to yell commands, but the driver was not complying with any of his commands. Officer Brenner stated that he did yell commands and even at one point started to yell profanity because he felt that things were escalating and felt that the driver was going to pull a gun out on him. Officer Brenner wanted to make sure that the driver knew that he was serious, so that is why he escalated to using profanity when the driver was not following any commands.

Once the driver reached the top of the berm, he started to run into an open field on Carroll Street. When Officer Brenner reached the top of the berm, he re-drew his duty weapon because the driver continued to keep his hands at his front waist area. It was while running after the driver that Officer Brenner observed a gun fall off the driver's waist area and to the right of the driver, on the grass. Officer Brenner stated that with his training and experience and knowledge of firearms he knew that the item the driver dropped was a firearm because of the way it fell on to the grass. It was clearly not light in weight, like a toy gun. Officer Brenner stated that it was smaller type, compact weapon that was dark in color.

After Officer Brenner saw the gun fall to the ground, the driver then immediately started to turn to the right towards the gun on the ground. Officer Brenner stated that he "punched out"

meaning his arms extended at the high ready with his duty weapon out and yelling “Stop, I am going to fucking shoot you!”

Officer Brenner stated that he never stopped yelling commands and the driver would not follow any of his commands. The driver continued turning to the right towards the gun reaching for it, Officer Brenner felt that if the driver got to the gun that he was going to use it against him and shoot him. Officer Brenner stated that he feared for his life. Officer Brenner stated that he felt that the only reason the driver to reach for the gun on the ground was to use it against him. Officer Brenner stated that it would have only taken hundredths of a second to pick up the gun and shoot him. Officer Brenner stated that he then shot at the driver with his duty weapon. Officer Brenner stated that he fired his weapon 3 or 4 times at the driver. Officer Brenner stated that because the weapon had fallen onto the ground, and having that open field to flee, Officer Brenner felt that the driver’s only reason for grabbing that gun was to turn and use it against him. Officer Brenner stated that he feared for his life and that is why he fired his weapon at the driver.

Officer Brenner stated that after he fired, the driver fell to the ground and continued to move to the right. Officer Brenner was still pointing his weapon at the driver and yelling at the driver to not reach for the gun. Officer Brenner stated that he continued to yell out commands to the driver to put his hands above his head. Officer Brenner stated that the driver finally complied and extended his arms above his head. Officer Brenner stated that as he held the driver at gunpoint and that the driver’s gun was on the ground between them, a few feet away from both of them. Officer Brenner stated that he then used his radio to call into dispatch, that he told them shots were fired and had one down and to send fire and rescue. Officer Brenner stated that he held the driver at gunpoint until help arrived.

The driver was transported by the Racine Fire Department to the Ascension Emergency Department and succumbed to his injuries. The driver was identified as Mr. King. Notification was made to Mr. King’s brother, DAK. DAK stated that after receiving a phone call telling him to check on his brother near 12th Street and Washington Avenue, he responded to the area of the shooting and saw what he described as his brother’s rented Volkswagen Atlas with the door open. DAK reported that his brother had been driving the rented Volkswagen for 1-2 weeks. DAK said that when he observed this scene, he concluded that his brother had run from the police, and described his brother as having “rabbit” in him. DAK stated that he was aware that his brother was out on bond for a gun case from two years prior, but that he had not seen his brother with a gun

recently. On May 20, 2022, Dashontay King was out on bond after having been charged with felonies in three Racine County cases:

19 CF 640 – 2 counts Fleeing and Eluding, Possession of THC and Possession of Drug Paraphernalia

20 CF 1234 – Possession of a Firearm by a Felon, Carrying a Concealed Weapon, and 2 counts of Felony Bail Jumping

21 CF 633 – 4 counts of Felony Bail Jumping

DAK was aware from “word on the street” that his brother, Mr. King, had been involved in a shooting. DAK stated that his brother’s girlfriend had been arrested during the investigation into a recent shooting because she would not cooperate with police. Racine Police Department records confirmed that Mr. King’s girlfriend, RSG, had been arrested for lying to police about a shooting that occurred on May 3, 2002. RSG was also the purchaser of the firearm that Mr. King was arrested for on 20 CF 1234 and RSG had also rented the Volkswagen Atlas that Mr. King was driving on May 20, 2022.

Pursuant to Wisconsin Statutes, outside agencies conducted the investigation into Mr. King’s death and the investigation was led by the Wisconsin Department of Justice - Division of Criminal Investigations.

AUTOPSY

The autopsy of Mr. King was performed at the Milwaukee County Medical Examiner’s Office. The final autopsy report has not been received because toxicology results are still pending at the Milwaukee County Medical Examiner’s Office. Preliminary findings, however, indicate that Mr. King died from gunshot wounds. Three bullets were removed from the body of Mr. King.

1. Penetrating gunshot wound, chest
 - a. Indeterminate range graze entrance, right lower back (A)
 - b. Perforation of right upper lung lobe
 - c. 146 gr mushroomed totally jacketed medium caliber bullet recovered from vertebral body T4
 - d. Trajectory back to front, upward, slightly right to left
2. Penetrating gunshot wound, abdomen
 - a. Indeterminate range entrance, right lower back (C)

- b. Perforation of liver
 - c. 150 gr mushroomed totally jacketed medium caliber bullet recovered from vertebral body T12
 - d. Trajectory back to front, upward, right to left
3. Penetrating gunshot wound, chest
- a. Indeterminate range entrance wound, right lateral chest (D)
 - b. Perforation of right upper lung lobe, right atrium, left upper lung lobe, soft tissue
 - c. 149 gr mushroomed totally jacketed medium caliber bullet recovered from left axilla
 - d. Trajectory right to left, upward, slightly front to back

RELEVANT PHYSICAL EVIDENCE

Pursuant to recorded call logs, Officer Brenner called out the stop of the Volkswagen at 13:01:56 and then called out that shots were fired at 13:02:19, for a total of 25 seconds. Officer Brenner was wearing his BWC at the time of the incident and it recorded the events he described². Special Agent Tijerino from DCI reviewed and described the BWC as follows:

13:00:59 Video starts and Officer can be seen driving his RPD assigned Squad. There is no audio at this time.
13:01:50 Officer Brenner brings his Squad to a sudden stop and he proceeds to exit the vehicle. At this time a B/M subject (KING) can be seen running between houses, wearing dark sweat pants with a white strip along the sides, light colored hooded sweatshirt, white tennis shoes and red underwear. Officer Brenner initiates a foot pursuit and withdraws his department issued handgun. The B/M subject (KING) continues to run between the houses and towards the backyard.

13:01:55 Officer Brenner continues the foot pursuit and the audio can now be heard at which time you can clearly hear Officer Brenner shouting: "STOP! You are going to get shot! You are going to get shot! It should be noted that the B/M subject (KING) does not appear to have anything in his hands at this time.

13:01:57 Officer Brenner approaches the B/M subject (KING) who has stopped at the corner of the yard and looks directly at Officer Brenner. Officer Brenner continues to shout verbal commands: "Get on the fucking ground! Get on the ground!" It should be noted that the B/M subject (KING) does not appear to have anything in his hands at this time.

13:01:59 The B/M subject (KING) jumps the fence between the yards and continues to disregard Officer Brenner's instructions. Officer Brenner continues the foot pursuit and jumps the same fence that the B/M did moments earlier. It should be noted that the B/M subject (KING) does not appear to have anything in his hands at this time.

13:02:05 Officer Brenner successfully jumps the fence and continues the foot pursuit while shouting verbal commands: "Stop! You are going to get shot!" The B/M subject (KING) continues to run away from the Officer while ignoring his verbal commands and he appears to be pressing his right hand to his upper thigh. Officer Brenner shouts: "Get on the ground! Get on the ground!" It should be noted that the B/M subject (KING) does not appear to have anything in his hands at this time.

13:02:07 The B/M subject (KING) continues to ignore Officer Brenner's verbal commands while he runs away from the Officer and appears to be reaching for something in his right pants pocket or struggling with something in his right pants pocket which appears to make him raise his right leg in what appears to be an

² Officer Brenner BWC 0:00 – 1:20 [[Link](#)]

attempt to gain control of whatever he has in his pocket and/or waist line. Officer Brenner continues to repeatedly shout verbal commands: "Get on the ground!"

13:02:08 The B/M continues to run away from Officer Brenner and at this time extends his right arm while appearing to jump. At this time a dark (black) object can be seen dropping from the B/M's right hand towards the ground.

13:02:09 The B/M appears to stop and reaches down for the aforementioned black object and picks it up with his right hand at which time Officer Brenner can be heard shouting verbal commands ("Get on the ground! Get on the Ground!") and discharges his department issued firearm. It appears that Officer Brenner discharges his firearm four (4) times at the B/M subject (KING) .

13:02:10 The B/M subject (KING) goes down to the ground.

13:02:11 Officer Brenner goes on the air and announces that shots have been fired, gives his location and advises that the subject: "reached for a 32."

13:02:19 Officer Brenner continues to give verbal commands as the subject lays on his back on the ground: "Are you Ok? Roll away from me! Roll away from me! Roll away from me!"

13:02:20 Officer Brenner maintains a safe distance from the B/M subject (KING) while still giving him verbal commands at which time the B/M subject (KING) turns over and lays face down.

13:02:24 Officer Brenner starts to provide further information to his dispatcher as he maintains a safe distance from the B/M subject (KING).

13:02:34 Officer Brenner stops talking to the dispatcher and continues to maintain a safe distance from the subject who is now lying face down on the ground.

13:02:37 B/M subject (KING) holds his head up and at one point he raises his upper body while extending both of his arms but does not get up and eventually rolls on to his left side. Officer Brenner continues to shout verbal commands: "Do not reach for anything! Hands up above your head! Hands up above your head! Hands up above your head! Do not reach for the gun! Do not reach for the gun please! Do not reach for the gun please! OK! Hands up above your head! Hands up above your head!"

13:03:03 Officer Brenner points to the location of the black handgun on the ground to arriving Officers: "Over here on the grass! Over here on the grass! Gun is right here!" It should be noted that the aforementioned object was confirmed to be a handgun. Officer Brenner maintains a safe tactical distance from the B/M subject (KING) until the 13:03:40 time mark, when other Officers take control of the situation by directing traffic and requesting a rescue squad (medical assistance).

13:03:40 A RPD Sargent turns over the B/M subject (KING) and after apparently checking his body, handcuffs him with the assistance of a female Officer.

13:04:04 Officer Brenner points to the handgun on the ground which can be seen clearly on the video. Officer Brenner does not approach the B/M subject (KING) .

13:04:17 Officers can be observed performing life saving measures on the B/M subject (KING) .

13:04:20 More Officers are arriving on scene and Officer Brenner walks away from the immediate scene and stands next to a squad vehicle.

13:04:30 Officer Brenner is approached by a supervisor and another Officer (Nabors) who asks him if he was ok. Officer Brenner replied affirmatively. Officer Nabors appears to check Officer Brenner's body for injuries.

13:04:46 Officers can be seen still giving the B/M subject (KING) life saving measures (chest compressions).

The evidence collection in this case was conducted by the Wisconsin State Crime Laboratory. Recovered in the field on Carroll St. was an olive green and black Springfield XD 9/40, .9mm handgun. The magazine had 15 rounds in the magazine and one in the chamber. Analysis at the Wisconsin State Crime Lab revealed that the Springfield handgun had also been used at a shooting that resulted in property damage in the area of Edgewood and St. Patrick Street on April 21, 2022. An attempt was made to locate possible fingerprints on the Springfield handgun, the magazine and 16 unfired cartridges but there were no fingerprints suitable for comparison. The

Springfield handgun and the magazine inside was swabbed for DNA and compared to a DNA sample from Mr. King. Swabs from the grip, the front and rear sights and the rear slide of the Springfield handgun contained DNA from Mr. King.





Near the Springfield firearm in the field, a pile of clothing was located. The clothing had been removed from Mr. King by rescue. The clothing contained a white tank top, white t-shirt, and gray Adidas-brand hooded sweatshirt. All three items of clothing contained four defects in the right lower flank area of the shirts, consistent with the injuries described by the medical examiner. All three shirts also exhibited red stains in the area of the defects.



Next to the clothing, also in the grass, was a paper bag. The contents of the paper bag were examined and within the paper bag were keys, money (\$13.00), a lighter, and Carmex.

The Volkswagen Atlas remained at the scene and was photographed as it was left by Mr. King. The Volkswagen had damage to the rear passenger door from what appeared to be a bullet hole that was determined to be from a previous incident, due to its age.



Inside the Volkswagen Atlas, The following items of evidence were located and seized from the vehicle:

- Item #1 – Apple iPhone, without case, recovered from the driver’s seat
- Item #2 – ZTE flip cell phone, recovered from the center console cup holder
- Item #3 – Black balaclava recovered from the center console cup holder
- Item #4 – Apple iPhone, without case, recovered from the map pocket at rear of the front driver’s seat
- Item #5 – One knotted, clear plastic baggie with white powdery chunks, recovered from the interior of the center console armrest. The substance field tested positive for cocaine and weighed 9.3 grams.

In the center console compartment, forward of the gear shift, S/A Agnew located a leather men’s wallet, which contained a Wisconsin photo identification card issued to Dashontay Lukas King, a COVID-19 Vaccination Record Card issued to Mr. King, and two debit cards issued to Mr. King. A plain black credit and/or debit card was issued to “12thdayday” and had the letters

BIG GDΨ. A Wisconsin Quest card issued to the name NJB was located on the front passenger seat. At the emergency room, a holster for a handgun was inventoried with Mr. King's other property.

Officer Brenner was carrying one firearm, a Glock 17, Gen 5. The Glock 17 is a 9 mm, handgun. An examination of Officer Brenner's weapon revealed that he fired 4 rounds from a 17 round magazine. 4 casings were recovered at the scene, all Luger F.C. ammunition consistent with the ammunition carried by Officer Brenner.

A business located at 930 Carroll St. did have 2 surveillance cameras recording the outside of the building, one facing east and one facing west. Special Agent Jones from DCI reviewed the videos and noted the following:

West Camera:

13:01:00 – Video begins with depicting a view to the southeast. There is a view of parking lot with a dark colored Chevy Truck in the lot facing north. There is also a view of the crime scene location.

13:02:26 – Male voice heard saying, "Stop. Stop. Get on the ground."

13:02:32 – Subject wearing a light-colored top w/ hood and dark colored pants was observed running in a northeast direction. Male voice heard saying, "Stop. Stop. You're gonna get shot." Subject appears to jump and stop. Subject was being chased by another subject wearing dark colored clothing. Male voice heard saying, "Get on the fucking ground. Get on the ground."

13:02:35 – Subject in the light-colored top w/ hood then reached down towards the ground and the subject in the dark colored clothing then fired four (4) shots. Subject in the light-colored clothing fell to the ground (grass area). Male voice heard saying, "Shots fired"

13:02:38 – Subject in the light-colored top w/ hood was on the ground and the subject in dark clothing retreated backwards after the shots were fired.

13:02:43 – Subject in the light-colored top w/ hood was on the ground and the subject in the dark clothing circled to the northeast. Male voice heard saying, "Roll away from me. Roll away from me."

13:02:49 – Subject in the light-colored top w/ hood was on the ground and the subject in the dark clothing was still standing in close proximity. Subject on the ground was observed rolling on the ground (grass area). Male voice heard saying, "Dispatch, I'm okay."

13:03:06 – Subject in the light-colored top w/ hood was still on the ground and the subject in the dark clothing continued to stand in close proximity and moved back and forth north and south. Male voice heard saying, "Do not reach for anything. Hands out above your head (several times). Do not reach for the gun."

13:03:22 – Police squad arrived on scene. Squad drove onto the grass area in close proximity of the subject in dark clothing.

13:03:30 – Subject in dark clothing exited from the squad and walked up to the subject standing in dark clothing and in close proximity of the subject on the ground in the light-colored top w/ hood.

13:03:44 – Both subjects standing (wearing dark clothing) moved closer to the subject on the ground.

13:04:06 – Squad arrived on scene and stopped in the roadway. Additional squads arrived and also stopped in the roadway and also in the grass area. Multiple subjects in dark clothing then approached the subject on the ground wearing the light-colored top w/ hood. This subject was then rolled over.

13:04:45 – Appeared that CPR was started by a subject wearing dark clothing on the subject on the ground wearing the light-colored top w/ hood.

13:05:00 – Male voice in background yelled, "Call the fucking ambulance. Call the fucking ambulance. Fuck you. Fuck you."

13:05:27 – CPR was still being done by a subject wearing dark clothing on the subject on the ground wearing the light-colored top w/ hood. At one point, another subject wearing dark clothing switched and continued the CPR.

13:07:18 – Female voice in background stated, “He dead bro. after they shot him, he still had the gun on him on the ground.”
13:08:16 – Med unit arrived on scene. Personnel exited and ran over to the area where the CPR was being administered.
13:08:24 – Engine arrived on scene. Personnel exited and ran over to the area where the CPR was being administered.
13:08:55 - Female voice in background stated, “Why they putting him in a body bag? You see a body bag?”
13:09:12 – Multiple subjects observed in the area where the subject with the light-colored top w/ hood was on the ground (grass area).
13:09:27 - Female voice in background stated, “Naw he not dead yet. He not dead. They put that thing around his neck. They better hope he alive.”
13:10:07 - Female subject in dark clothing observed walking to the west and then back to the east.
13:10:20 – Male subject in dark clothing observed putting up crime scene tape.
13:11:05 – Board and cot observed being moved to the location of the subject with the light-colored top with hood on the ground.
13:12:40 - Female voice in background stated, “He must have died or something.”
13:13:33 – Female in dark clothing walked into the camera area from the west walking to the east on the sidewalk. She had her phone up as though she was recording what was taking place.
13:14:16 – Subject wearing the light-colored top w/ hood was moved to the cot and then rolled to the Med Unit. Subjects in dark clothing then entered the Med Unit.
13:15:25 – Female in dark clothing that had earlier walked into the camera area from the west walking to the east on the sidewalk with her phone up as though she was recording what was taking place, was now observed running to the west and out of camera view.
13:16:40 – Med Unit with Squad (both with emergency lights and sirens activated) were observed leaving the area traveling westbound.
13:17:04 – Multiple subjects wearing dark clothing were still observed at the scene in close proximity of the grass area.
13:17:20 – Video Ended.

East Camera:

01:01:10 PM – Video begins with depicting a view to the southeast. There is a view of parking lot and minimal view of the crime scene location.
01:01:47 PM – Observed a SUV type vehicle driving east on the next street over.
01:01:51 PM – Heard a siren and observed an emergency light on a dark colored vehicle driving east on the next street over.
01:01:56 PM – Overheard a male voice saying, “Stop (multiple times). You’re gonna get shot (multiple times). Get on the ground.”
01:02:11 PM – Overheard a male voice saying, “Get on the ground (multiple times).” Then four (4) shots.”
01:02:15 PM - Overheard a male voice saying, “Shots fired. Shots fired. I’m right over here. (Muffled Transmission). I’m okay. Roll away from me. Roll away from me. Dispatch, I’m okay. One down. (Muffled Transmissions).
01:02:40 PM - Overheard a male voice saying, “Do not reach for anything. Hands out above your head (multiple times). Do not reach for the gun (multiple times).
01:02:58 PM - Squad arrived on scene. Overheard a male voice saying, “Hands out above your head. Over here in the grass. Over here in the grass. Dropped right here.”
01:03:43 PM – Additional Squads (sirens and emergency lights activated) arrived on scene.
01:04:12 PM – Male in background yelling, “He ain’t had no fucking gun. He ain’t had no fucking gun. Bitch ass. Fuck you. Fuck you. Bitch made mother fucker.
01:06:48 PM – Female voice in background stated, “He dead bro. after they shot him, he still had the gun on him on the ground.”
01:07:50 PM – Med unit arrived on scene and personnel exited.
01:08:04 PM - Engine arrived on scene and personnel exited.
01:08:15 PM – All EMT Personnel ran to the southwest (Out of Camera View).

01:09:01 PM - Female voice in background stated, "Naw he not dead yet. He not dead. They put that thing around his neck. They better hope he alive."
01:09:30 PM - Female subject in dark clothing observed walking to the west and then back to the east.
01:10:05 PM - Male subject in dark clothing observed putting up crime scene tape.
01:10:50 PM - Board and cot observed being moved from Med Unit to the south and out of camera view.
01:13:24 PM - Female in dark clothing walked into the camera area from the west walking to the east on the sidewalk. She had her phone up as though she was recording what was taking place.
01:14:01 PM - Subject was rolled to the Med Unit on a cot.
01:14:10 PM - Subjects in dark clothing then entered the Med Unit.
01:15:00 PM - Female in dark clothing that had earlier walked into the camera area from the west walking to the east on the sidewalk with her phone up as though she was recording what was taking place, was now observed running to the west and out of camera view.
01:16:12 PM - Med Unit with Squad (both with emergency lights and sirens activated) were observed leaving the area traveling westbound.
01:16:46 PM - Video Ended.

A business located at 910 Carroll Street had surveillance, but it did not capture the incident. The St. Paul Garden Apartment buildings on Carroll St. had some surveillance cameras, but none pointing the in the direction of the field where the shooting occurred.

The resident of the home where Mr. King left the Volkswagen Atlas had a Ring doorbell. She advised Racine County Sheriff's Deputies who conducted a neighborhood canvas that she was at work at the time of the shooting. She stated that her Ring doorbell alerted her that there was activity at her home and she was able to watch what was happening in real time. She stated that she observed the Volkswagen vehicle, which she did not recognize, already in her driveway. She then observed a lighter skinned black male exit the driver door and run northbound to the back yard with a police officer closely behind the suspect, coming around the house. She did not hear anything through the live view. Due to the close proximity of her work to the scene, she stated that moments later she physically heard "a lot" of gunshots, estimating 5-10 shots. The resident stated that she did not recognize the subject that exited the vehicle and only observed one subject exit and she did not see anything carried or in the hands of the subject during the live viewing.

Three videos from Facebook Live were recovered, however, none of the three videos captured the shooting. All three were recordings of events that occurred after shots were fired. An extensive neighborhood canvas was completed and people described hearing shouting, the shots, and the sirens, but only one witness reported having witnessed the shooting of Mr. King and could not say if Mr. King was armed.

FRAME BY FRAME ANALYSIS OF
OFFICER BRENNER BWC

From the time Officer Brenner leaves his squad until the second officer arrives on scene is approximately 1 minute, 20 seconds. The BWC recorded in real time and moves very quickly. In order to best review this video, it was important to do so frame by frame to be certain of what the recording showed. The following are the still photos taken from the video of the critical moments leading up to the shooting.



STILL PHOTO #1 – Mr. King’s pace changes, his right hand is at his waist,
and his right knee is up high.

Officer Brenner has his weapon out but is not aiming his weapon at Mr. King.



STILL PHOTO #2: Mr. King's right arm is up above his shoulder and an object, believed to be the gun, is falling to the ground.

Officer Brenner has his weapon out but is not aiming his weapon at Mr. King.



STILL PHOTO #3: Mr. King stops moving forward and turns to his right, towards Officer Brenner.



STILL PHOTO #4: Mr. King is reaching down for the gun he has just dropped.



STILL PHOTO #5: Mr. King has retrieved the gun from the ground



STILL PHOTO #6: Shot 1 fired by Officer Brenner



STILL PHOTO #7: Mr. King is hit by the first shot and the gun is coming out of his hand



STILL PHOTO #8: Shot 2 fired by Officer Brenner



STILL PHOTO #9: Shot 3 fired by Officer Brenner



STILL SHOT #10: Shot 4 fired by Officer Brenner

There is only 1/100th of a second between the time that Mr. King turns right to retrieve his gun and when Officer Brenner is done firing his fourth round.

LEGAL STANDARDS AND POLICE POLICY AND PROCEDURE

Wisconsin Statute sec. 175.47(5) is the statute that provides for the method by which review of deaths involving officers are reviewed.

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).

In this case, the pertinent issue is whether the officer in this case, based on the facts and evidence in the investigation, committed a crime in causing the death of Mr. King, and whether a defense to any criminal liability exists.

There is no doubt that Mr. King's death was caused by Officer Brenner. The projectiles recovered from Mr. King's body were rounds fired from Officer Brenner's weapon. With that question answered, the analysis must then turn to self-defense and defense of others. Wis. Stat. sec. 939.48(1) reads as follows:

939.48(1) Self-defense and defense of others.

(1) 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

The Wisconsin Department of Justice annually publishes Defensive and Arrest Tactics: A Training Guide For Law Enforcement Officers. The Wisconsin Law Enforcement Standards Board approves the training manual. The most recent manual was approved on December 1, 2021. Also known as D.A.A.T. training, every officer in the State of Wisconsin undergoes this training at the academy and continuously updates this training for officers in the field. The Racine Police Department has adopted the same policies. These policies are helpful to my decision making as to how the officers in this case responded to the situation, and the training manual is attached to this decision³.

APPLICATION OF LEGAL SANDARD TO FACTS

The question that must be answered here is whether or not Officer Brenner use of deadly force against Dashontay King was reasonable under the circumstances that existed on May 20, 2022.

³ WI DOJ D.A.A.T. Manual [[Link](#)]

First, Officer Brenner was aware at the time he located the 2021 Volkswagen Atlas, driven by Mr. King, that he was executing a stop of the vehicle to search it and its occupants for firearms. A judge had already found probable cause authorizing the search. This was not a vehicle stop for a traffic violation, the search warrant itself demanded a higher level of attention and care by its very nature. The search warrant made note of the fact that Mr. King was free on bond after having been charged with Possession of a Firearm by a Felon, a fact that Officer Brenner was aware of from the warrant. Officer Brenner was justified in moving to using lethal force when Mr. King proved himself to be armed with a handgun.

Second, Mr. King had made it a habit to possess guns. His first conviction for Possession of a Firearm as a Felon was in 2003, in Racine County Case Number 03 CF 8. In 2013, Mr. King was convicted federally of Possession of a Firearm by a Felon. In 2020, Mr. King was charged with Possession of a Firearm by a Felon and charged in Racine County Case 20 CF 1234. Mr. King's brother acknowledged that Mr. King would at times be illegally in possession of guns, and his girlfriend was aware on at least two occasions of his involvement with firearms. The vehicle he was traveling in on May 20, 2022, had a bullet hole in it, that was not from that day. By May 17, 2022, law enforcement was able to develop probable cause that Mr. King was in possession of a firearm again. Mr. King also made it a habit to flee from police when confronted. In 2013, Mr. King was charged with Obstructing an Officer in connection with possessing a firearm. (RPD 13-006920). In 2017, Mr. King was charged with Fleeing and Eluding an Officer. (MPPD 17-002114) In 2019, Mr. King was charged with 2 counts of Fleeing and Eluding an Officer and was released on bond in that case at the time of his death. (RPD 19-020588) While the dates of these offenses seem spread part, Mr. King was incarcerated for significant periods of time in between these offenses.

Third, the severity of the alleged crime at issue, whether the suspect poses an imminent threat to the safety of officers and/or others, and whether the suspect is actively resisting or attempting to evade arrest by flight are all objective considerations that have been recognized by the United States Supreme Court when reviewing an officer's actions for reasonableness. When faced with the possibility of a traffic stop, Mr. King made the choice to flee from Officer Brenner. Flight, combined with the presumed presence of a weapon, makes this a very dangerous situation for the officer and the public. The nature of the charges Mr. King could have faced are unquestionably serious. The current crisis the City of Racine faces with the significant increase in

gun crimes and shootings is most certainly a factor that needs to be considered when an officer is assessing a person for dangerousness to himself and the community. Officer Brenner as a patrol officer is and was most certainly aware of the risk that illegal gun possession presents to the community as a whole.

Fourth, in the course of the contact between Mr. King and Officer Brenner, Mr. King had multiple opportunities to eliminate the risk of harm to himself. He could have decided to follow the law and not go armed with a handgun. He could have stopped in his vehicle and complied with the traffic stop. He could have stopped when he reached the berm in the back yard of the home on 12th Street and complied with Officer Brenner's orders to stop. After trying to unsuccessfully trying to climb the berm the first time, Mr. King stopped, turned and looked at Officer Brenner, and made a conscious decision to turn back and climb the berm. Mr. King could have left the gun where it fell on the ground in the field on Carroll Street. Officer Brenner had given multiple warnings to stop and multiple warnings that Mr. King was at risk of being shot. Any of these choices would have eliminated the need for Officer Brenner to use deadly force against Mr. King. By changing direction, stopping, and turning towards Officer Brenner to retrieve his gun, Mr. King made it clear that his intent was retrieve the firearm and that gave him the ability to use the firearm. His actions made Officer Brenner's response the most reasonable response under the circumstances.

In 1/100th of a second, Officer Brenner had to make a decision as to what Mr. King might do with his weapon. The D.A.A.T. Manual teaches officers to understand that before you can begin to counter a suspect's act, you must perceive the act, identify the need to react, and decide to react. This interval, during which your brain is receiving and processing information, is called the reactionary gap. For most people, the reactionary gap is at least 1/2 to 3/4 of a second—and often much longer. If you only react to the other person's action, you will never catch up. For example, if a suspect draws a weapon, and you react only by drawing your own weapon, you will probably be shot before you can get your weapon out of the holster. If you are confronted with an armed adversary within a very few feet, instead of merely reacting, you must also initiate an action. That is exactly what happened in this instance.

Fifth, if Officer Brenner had multiple opportunities to discharge his weapon while Mr. King's gun was still in his pocket, but his training taught him that using deadly force in that situation was not appropriate and he did not fire. Officer Brenner was able to gain ground between himself and Mr. King in the yard when Mr. King failed to make it up the berm to the field the first

time. Officer Brenner tried grabbing Mr. King's sweatshirt after he went up the berm on his second attempt. Officer Brenner re-holstered his weapon while climbing himself and while Mr. King was ahead of him, leaving himself vulnerable to the armed suspect he was chasing. Finally, even after Officer Brenner knew that Mr. King dropped a handgun, he did not point his weapon at Mr. King until Mr. King stopped to recover his gun. It was at that point that Officer Brenner was forced to close the reaction gap and fired the four rounds he did to stop the threat as he was trained to do.

Sixth, the wounds suffered by Mr. King show that he was not just running away from Officer Brenner, but had in fact turned his body to the right to retrieve his weapon. The entrance wounds and the trajectories are consistent with what can be seen in the video. His wounds were to the far right side of Mr. King's back, near the right side seam of his sweatshirt, with an upward trajectory, right to left. The injuries were very close together which indicates that the entire incident happened very quickly, as Mr. King was moving in a dynamic way and not standing still.

CONCLUSION

My review of the facts and circumstances of this case lead me to the conclusion that Officer Brenner is immune from criminal liability in this case as the death of Mr. King was a direct result of Mr. King's conduct that posed a reasonable and imminent threat to Officer Brenner, under the circumstances as they existed at the time. Mr. King was armed with a firearm, therefore, his intentional use of a firearm was reasonable and necessary under the circumstances.

Dated this 19th Day of July, 2022.



Patricia Hanson
Racine County District Attorney