

Press Release

FOR IMMEDIATE RELEASE: March 29, 2018

Contact: Jessica McBrier
Director, Media Relations
235-9919

Update: CMHU Investigation, Officer-Involved Shooting, Elwood Avenue

OFFICER INVOLVED SHOOTING

On March 27, 2018, at 6:00 p.m., a woman who lives in the 1300 block of Elwood called the police on an unwanted/unknown person who was refusing to leave. South Bend Police dispatched officers to respond. Officer Sam Chaput was the first to arrive.

During the course of his investigation, Officer Chaput discharged his firearm, striking that unwanted person. He and Officer Chaput were transported to the hospital. Officer Chaput was treated and released. The unwanted person, subsequently identified as Terrance Eppenger, age 27, remains in the hospital suffering from critical injuries.

The St. Joseph County Metro Homicide Unit (CMHU) was activated to investigate this matter, independent of the South Bend Police Department.

WITNESS STATEMENTS

There were of a number of people who saw and heard what occurred. These witnesses came from the home, neighbors and individuals who were driving by. These witnesses were separated and interviewed individually.

The witness were consistent with each other.

According to the witnesses who lived in that home, Terrance Eppenger (although they did not know his name) had been coming there on a number of occasions, stating that he knew the person who lived upstairs to the duplex. On some of those occasions, the upstairs resident had not been there when Mr. Eppenger would arrive. Despite requests by the downstairs residents for him to leave, Mr. Eppenger refused to do so. Instead, he would sleep on the front porch.

On March 26th, the residents of the home met and agreed that “the guy” shouldn’t be at the home if the upstairs resident was not there. The upstairs resident advised them that he had spoken to “the guy” about this fact, and if Terrance Eppenger came over again, to call the police.

On March 27th, a little before 6:00 p.m., Mr. Eppenger again returned to the home while the upstairs resident was not there. Mr. Eppenger came up on the front porch and refused to leave. Those residents called the police. A short time later, an officer (later identified as Officer Chaput) arrived, parking directly in front of the home. As Officer Chaput walked up to the porch, Officer Chaput told Mr. Eppenger that the person he was coming to see was not there and that he had to leave.

One of the downstairs residents then stepped out of her door onto the porch and told the officer that Mr. Eppenger was unwanted and had refused to leave. Mr. Eppenger became angry. Witnesses heard Officer Chaput tell Mr. Eppenger to “calm down”. They then saw Mr. Eppenger begin striking Officer Chaput in the head. The two then struggled, falling to the ground.

Witnesses (including neighbors and passersby) stated that Officer Chaput and Mr. Eppenger then struggled on the ground, with Mr. Eppenger striking Officer Chaput about the head a number of times. Each witness believed that Mr. Eppenger struck Officer Chaput at least 10-20 times. Each witness (individually) advised investigators that they became fearful for Officer Chaput, fearing that the officer was going to get seriously hurt or killed.

Eventually, Mr. Eppenger had Officer Chaput pinned just on the street in front of the squad car, striking and injuring him. The witnesses stated that it looked as if Officer Chaput was tiring. They then saw Officer Chaput reach to his side, pull out his firearm, and shoot one (1) time, striking Mr. Eppenger in the abdomen.

After the shooting, the witnesses saw Mr. Eppenger fall to the side. They related that Officer Chaput rolled Mr. Eppenger over and called out for emergency medical assistance.

The witnesses saw that Mr. Eppenger was bleeding profusely. They saw Officer Chaput then covered the wound with his own hands in an attempt to stop the bleeding. One of the witnesses ran outside with a towel and gave it to Officer Chaput. Officer Chaput put the towel over the wound and continued to apply pressure, slowing down the bleeding until other first responders arrived.

Numerous non-involved witnesses saw what had occurred. Each witness stated that they believed that the officer was going to be seriously injured or die. Each believed that based upon the circumstances of the beating and the struggle, the officer was justified in discharging his firearm.

MEDICAL ASSISTANCE

The EMT's rushed Mr. Eppenger to the hospital and he went into emergency surgery, suffering critical injuries. He has since regained consciousness and was able to speak to hospital personnel. However, doctors have advised detectives that he would not be available to interview.

Officer Chaput suffered bruises, lacerations, and swelling about his arms, head and face.

SHOTSPOTTER, DISPATCH AND 911 CALLS

The CMHU recovered the Shotspotter alert, dispatch and 911 calls.

Shotspotter indicated that one (1) firearm was discharged. A shell casing was located next to the squad car.

The original call (for assistance on an unwanted person who was refusing to leave) went out at 6:00 p.m.

The call from Officer Chaput for emergency medical assistance went out at 6:04 p.m.

A witness photograph, time stamped at 6:06 p.m, depicts Officer Chaput rendering aid to Mr. Eppenger.

Another 911 call associated with this incident was also recovered by detectives. This call came from one of the downstairs residents. Fearing for the safety of the officer, the caller can be heard voicing her concern that the officer (Chaput) was getting "beaten up". The caller then advised that the officer shot him.

SELF-DEFENSE

Some conduct, even if otherwise criminal, is considered "legally justified" when that person is acting in self-defense. This defense is appropriate only in certain circumstances. Those specific situations are legislatively defined at IC 35-41-3. For purposes of this investigation, the relevant code section reads as follows:

“[A] person:

(1) is justified in using deadly force; and

(2) does not have a duty to retreat;

If the person **reasonably believes** that that force is necessary
to prevent serious bodily injury to the person or a third person”

(IC 35-41-3-2(c)) (emphasis added)

To justify using deadly force to protect one’s self, there must be an honest and reasonable belief of imminent death or great bodily injury. “Deadly force” is force that creates a substantial risk of serious bodily injury.

Indiana courts have further defined this defense. According to Indiana law, the appropriate inquiry has both a subjective part (i.e. what the actor perceives) and an objective part (whether a reasonable person would find the perception reasonable). Thus, the analysis requires two separate but related considerations:

(1) whether the person **honestly** perceived a necessity to act as he did, and

(2) whether the perceptions were **objectively reasonable**.

In other words, would an ordinary, reasonable person (in the actor’s position), given all the same facts and circumstances, reasonably believe that he is in imminent danger of losing his life or receiving great bodily harm, and that force was necessary to protect themselves or another person.

Wilson v. State (2002) In. 770 NE2d 799,800

Jordan v. State (1995) Ind. 656 NE2d 816, 817

Davis v. State (1983) 456 NE2d 405

Johnson v. State (1996) Ind.App. 671 NE2d 1203, 1209

Whipple v. State (1988) Ind. 523 NE2d 1363, 1366-67

McCraney v. State (1983) Ind. 447 NE2d 589, 591

Spinks v. State (1982) Ind. 437 NE2d 963, 965

Harvey v. State (1989) Ind.App. 541 Ne2d 556, 557-58

The State must disprove a claim of self-defense, beyond a reasonable doubt.

A law enforcement officer has the same right as a person who is not a law enforcement officer to assert self-defense. IC 35-41-3-3(f).

ANALYSIS

Subjective Perception

Officer Chaput also spoke to investigators. He was not apprised of any witness statements prior to speaking with detectives. His statement was consistent with the independent witnesses.

1. He advised CMHU detectives that he attempted to stop the beating.
2. He attempted to calm Mr. Eppenger down.
3. He attempted to grab Mr. Eppenger's arms.
4. He attempted to wrestle with Mr. Eppenger.
5. At one point, he was able to stand up (along with Mr. Eppenger), trying to get Mr. Eppenger to stop.
6. None of these tactics worked.
7. Instead, Mr. Eppenger continued to strike him about the head and face.
8. Mr. Eppenger continued to fight, strike, and struggle with Officer Chaput.
9. Eventually, Mr. Eppenger was on top of him right in front of his squad car.
10. Mr. Eppenger had his hands about Officer Chaput's head and face.
11. Officer Chaput could not break free.

12. Officer Chaput could not get to his taser.

13. With no other recourse and fearing for his life, Officer Chaput advised detectives that he pulled his firearm and fired one time into the abdomen of Mr. Eppenger.

There is no evidence to dispute Officer Chaput's subjective fear.

Objective Reasonableness

According to the independent witnesses, Officer Chaput was facing serious bodily injury or death.

1. Each witness voiced their belief that Officer Chaput was being seriously beaten about the head.
2. Each witness stated that Officer Chaput was trapped and was continuing to suffer serious injury.
3. Each witness believed that Officer Chaput was going to be killed.
4. Each witness stated that it was their belief that Officer Chaput was justified in discharging his firearm in order to stop being injured in that manner.

Based upon those witnesses, the physical evidence and the dispatch logs, I cannot say that Officer Chaput's fear of serious bodily injury or death was objectively unreasonable.

CONCLUSION

Officer Chaput shot Terrance Eppenger. However, there is substantial evidence to suggest that Officer Chaput was acting in self-defense. In order to refute a claim of self-defense, the State must prove, beyond a reasonable doubt, that the officers' fear of imminent serious bodily injury or death by Mr. Eppenger was either objectively unreasonable or insincere. Based upon the results

of the investigation as outlined above, there is insufficient evidence to refute either the officer's claim of subjective fear or the objective reasonableness of that fear. At this point, applying Indiana self-defense statutes to the results of this investigation, I conclude that Officer Chaput did not act inappropriately and that no criminal charges shall be filed against Officer Chaput.