




OFFICE OF THE RAMSEY COUNTY ATTORNEY  
JOHN J. CHOI, COUNTY ATTORNEY

TO: John Choi, Ramsey County Attorney

FROM: John Kelly, First Assistant Ramsey County Attorney   
Hao Nguyen, Trial Division Director **HQN**

DATE: October 2, 2023

RE: **Officer Involved Shooting on 01/24/2023**  
RCAO File No. 062-0553655 (White Bear Lake Police Sergeant Eric Gadbois and  
(White Bear Lake Police Officer Ryan Sheak)  
BCA File No. 2023-82

**I. Introduction**

The Ramsey County Attorney's Office reviewed the reports regarding an incident in a White Bear Lake apartment unit on January 24, 2023, in which Daniel Holmgren fired numerous gunshots at four White Bear Lake Police Department ("WBL PD") officers who were attempting to apprehend Mr. Holmgren on an outstanding felony arrest warrant. Two of the shots fired by Mr. Holmgren struck and severely wounded WBL PD Officer Ryan Sheak. In response to Mr. Holmgren's gunfire, Officer Sheak and WBL PD Sergeant Eric Gadbois, returned gunfire at him. Officer Sheak fired a single shot, and Sergeant Gadbois fired 11 shots. None of the shots fired by the officers struck Mr. Holmgren.

After reviewing the investigative file regarding this incident, including body worn camera video of the entire incident, and for the reasons stated below, we believe that the use of deadly force by both Officer Sheak and Segreant Gadbois against Mr. Holmgren, to be clearly justified under Minnesota law. Accordingly, we recommend that no criminal charges be brought against either of the officers.

## II. Case Summary and Facts

On January 24, 2023, at about 9:30 p.m., WBL PD Officers Dillion, Sheak and Sorensen responded to Apartment Unit Number 135, in the Lakewood Hills Apartments, located at 3185 Karth Road, in an attempt to apprehend Daniel Holmgren date of birth of 09/13/1989, for an outstanding Felony Domestic Assault warrant. The Lakewood Hills Apartment Complex is a multi-level complex that has several floors and residences that house an estimated 150-200 residents. Upon arrival, officers contacted an elderly woman who identified herself as Mr. Holmgren's mother. Officers told her they were there to talk to Mr. Holmgren. They informed her he had a warrant for his arrest. She told them he was there in the home and invited officers inside the residence. Officers followed her to a back bedroom and once there she told Mr. Holmgren to come out and speak with officers. Mr. Holmgren refused to listen to his mother and yelled through the closed door of the bedroom that he wouldn't come out and wanted officers to leave. Mr. Holmgren began screaming and yelling racial slurs at officers. Officers attempted to explain to Mr. Holmgren they were there to take him into custody telling him he had a warrant for his arrest. Mr. Holmgren argued with officers saying they didn't have a right to be inside his apartment. Given Mr. Holmgren's heightened level of aggression and him being verbally combative, officers called for a supervisor to come on scene and requested that the supervisor bring a non-lethal alternative in case physical extraction of Mr. Holmgren would be necessary.

Hearing that patrol officers needed help, Sergeant Gadbois responded from the White Bear Lake Police Department and brought a non-lethal pepper ball weapon. The pepper ball weapon is a non-lethal alternative that dispenses small rounds of pepper powder. Upon arrival, Sergeant Gadbois entered the apartment and began attempting to negotiate with Mr. Holmgren to come out of his bedroom. Sergeant Gadbois could see Mr. Holmgren through the crack of the door's threshold; the two made eye contact and spoke to each other. Mr. Holmgren continued to yell racial epithets at officers. Mr. Holmgren told Sergeant Gadbois that he could see him, saying something to the effect of "I see you with the pepper ball, do you think that is going to help you? You ready? I'm ready." Sergeant Gadbois continued to talk to Mr. Holmgren asking if there was anything they could do to have him come out peacefully. Mr. Holmgren then yelled "You want war? I'll give you a war. I'm ready to die."

Mr. Holmgren has a lengthy prior history of contacts with the White Bear Lake Police Department, wherein his prior contacts included him being abusive and threatening to responding officers. Mr. Holmgren had also been known personally by officers to carry and handle firearms.

Given negotiations were failing and seeing that Mr. Holmgren was becoming more agitated, Sergeant Gadbois, fearing for his safety and the wellbeing of his partners and other residents, decided to deploy the less lethal pepper ball weapon munition through a crack under the door of the bedroom. Sergeant Gadbois discharged about 7 pepper ball munitions into the bedroom. Within seconds Mr. Holmgren exited the bedroom and began firing a handgun in the direction of Sergeant Gadbois and Officers Sheak, Dillon, and Sorensen. Sergeant Gadbois was so close to Mr. Holmgren's firearm that he could feel the heat of the blasts coming from Mr. Holmgren's gun. While firing his gun at officers, Mr. Holmgren screamed "Come and get it" at officers. Mr. Holmgren fired several rounds at officers.

Officer Sheak was struck by Mr. Holmgren and fell to the ground. Once Officer Sheak fell, he screamed out he was hit. Mr. Holmgren then disappeared back into the bedroom and closed the door. Sergeant Gadbois dropped his less lethal pepper ball weapon and drew his department issued firearm. Fearing for his safety and the safety of others, Sergeant Gadbois returned fire at Mr. Holmgren. The evidence shows Sergeant Gadbois fired about 11 rounds at Mr. Holmgren. Additionally, the evidence also shows that Officer Sheak fired one single round at Mr. Holmgren. None of Sergeant Gadbois rounds or the single round fired by Officer Sheak struck Mr. Holmgren. As an injured officer, Sheak called out for help. Mr. Holmgren continued to yell profanities and threats at officers. Officer Dillon dragged Officer Sheak out of the apartment and into the hallway of the apartment building. Once in the hallway, officers began administering aid to Officer Sheak who had been shot and struck twice by Mr. Holmgren. One shot entered Officer Sheak's abdominal area and the other struck his left lower extremity.

SWAT (Special Weapons and Tactics) was called to the scene and took over negotiations with Mr. Holmgren. After a standoff, Mr. Holmgren was taken into custody without injury to himself or to any others.

### **III. Legal Analysis and Recommendation**

#### **A. Applicable Law**

Minnesota Statutes, Section 609.066, subdivision 2(a)(1)(i)-(iii) and (2), provides that the use of deadly force<sup>1</sup> by a peace officer in the line of duty is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

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<sup>1</sup> Minnesota Statutes, Section 609.066, subdivision 1, defines "deadly force" as "force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force."

(1) to protect the peace officer or another from apparent death or great bodily harm, provided that the threat:

- (i) can be articulated with specificity by the law enforcement officer;<sup>2</sup>
- (ii) is reasonably likely to occur absent action by the law enforcement officer; and
- (iii) must be addressed through the use of deadly force without unreasonable delay; or

(2) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or

(3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in clause (1), items (i) to (ii), unless immediately apprehended.”

(4) Additionally, Minn. Stat. Section 609.066, subd. 2(b) also requires that:

“...[a] peace officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (a), clause (1), items (i) to (iii).”

In 2020, the Minnesota Legislature, pursuant to Minn. Stat., Section 609.066, Subd. 1a(1)-(4), declared the following to be the legislative intent regarding the authorized use of deadly force by peace officers:

“(1) that the authority to use deadly force, conferred on peace officers by this section, is a critical responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law;

(2) as set forth below, it is the intent of the legislature that peace officers use deadly force only when necessary, in defense of human life or to prevent great bodily harm. In determining

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<sup>2</sup> An Order dated December 17, 2021, from Chief Judge Leonardo Castro, Second Judicial District, in Case No. 62-CV-21-3582, Minnesota Chiefs of Police Assoc., et al. v. Gov. Timothy Walz, et al., struck the words “by the law enforcement officer,” as unconstitutional.

whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case;

(3) that the decision by a peace officer to use deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using deadly force; and

(4) that peace officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers."

When interpreting the meaning of a statute, a court's primary goal is to "interpret and construct laws so as to ascertain and effectuate the intention of the legislature." Lietz v. Northern States Power Co., 718 N.W.2d 865 (2006).

To bring charges against a peace officer for using deadly force in the line of duty, a Minnesota prosecutor must be able to prove beyond a reasonable doubt that the use of force was not justified.<sup>3</sup>

The United States Supreme Court has recognized in the case of Tennessee v. Garner, 471 U.S. 1 (1985) that the use of deadly force by a peace officer is justified where the officer has probable cause to believe that the suspect poses a threat of serious bodily harm either to the officer or to others. In Graham v. Connor, 490 U.S. 386 (1989), the Court further held that an objective reasonableness standard should be used to evaluate an officer's use of force. The determination of reasonableness requires "careful attention to the facts and circumstances of each particular case."

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<sup>3</sup> RCAO charging guidelines provide that charges should only be filed in any criminal case "when credible admissible evidence creates a reasonable probability of obtaining a conviction at trial." This is similar to both the American Bar Association's Minimum Requirements for Filing and Maintaining Criminal Charges 3-4.3(a) ("A prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice) and the National District Attorneys Association Charging Standard 4-2.2 ("a prosecutor should file charges that...[the prosecutor] reasonably believes can be sustained by admissible evidence at trial").

In *Graham*, the Court outlined a non-exhaustive list of factors for balancing an individual's rights versus an officer's rights. Among the factors identified by the Court include: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether he is actively resisting arrest or attempting to evade arrest by flight. The Court also made clear that whether an officer used reasonable force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." The Court held that allowance must be made for the fact the law enforcement officers are often required to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. See also, *City and County of San Francisco v. Sheehan*, 575 U.S. 600, 615, 135 S.Ct. 1775, 1776-77 (2015).

**B. Analysis and Recommendation – The Use of Deadly Force by Sergeant Eric Gadbois and Officer Ryan Sheak Against Mr. Holmgren Was Justified Under Minnesota Law**

Both Officer Sheak and Sergeant Gadbois only used deadly force after Mr. Holmgren had first fired at them and their fellow officers without warning, within the close confines of a small apartment. Their use of deadly force against Mr. Holmgren was clearly justified given the extremely dangerous circumstances they faced in that apartment on January 24, 2023. Both officers had ample, reasonable reasons to fear for their lives, and the lives of others in the direct vicinity since the apartment is part of a complex where over 150-plus residents reside. Accordingly, we believe that the use of deadly force by Officer Sheak and Sergeant Gadbois in this matter was legally justified under Minnesota law, and we recommend that no criminal charges be brought against either officer.