

## SUMMARY OF EVENTS

### OFFICER INVOLVED SHOOTING NOVEMBER 19, 2014

#### Dispatch

November 19, 5:13 AM. 911 call of a Burglary in progress at 410 ½ E. 12<sup>th</sup> St. Davenport.

Call from downstairs neighbor. Upstairs should be vacant.

Landlord evicted tenant week prior. Locks changed.

#### Officer Involvement

Officers Brenda Waline and Justin King arrive.

Officers Waline and King enter through second floor, rear door. Originally confront two females who claim permission to be there. The women state there is no one else in the apartment. Officers hear someone in back room. Officer King searches and discovers a man is also present in the apartment.

Officer King attempts to identify the man, later identified as Matthew Tobin. Tobin gives false names. Tobin gives the names Matthew Reynolds and Michael Tobin. Tobin also gives inconsistent birthdates.

Tobin is questioned about his untruthfulness about his identity.

Tobin continues to be evasive. Officer King requests Tobin to remove his hands from his pockets. Tobin refuses.

Tobin makes a break for the back door. Officer Waline attempts to stop him and Tobin assaults Officer Waline by punching her several times. Officer King joins the struggle.

Officer King wrestles with Tobin and the struggle moves around the kitchen. They eventually wind up in narrow hallway on the floor with Officer King on top of Tobin.

Officer King sees that Tobin has a gun and advises Officer Waline.

Tobin shoots Officer King hitting him in the ear.

Officer Waline attempts to assist Officer King. Tobin is on bottom, facing down. Officer King in on Tobin's back struggling to get control of Tobin's handgun. Officer Waline is on top of both of them.

During the struggle, Tobin shoots a total of three times.

It is later discovered Officer Waline has a bullet hole through the right sleeve of her uniform.

Officer King advised Officer Waline that he has been shot and is losing consciousness. Officer Waline shoots Tobin but he continues to struggle. She shoots him a second time but he

continues to fight Officer King. Officer King is continuing to try to control Tobin's hand holding the gun.

During the struggle, Officer Waline's gun jammed and she had to reset the gun by ejecting a live round and chambering a new round. This is confirmed by evidence at the scene.

Officer King advises Officer Waline he can't hold on, is passing out, and to "hit him again." Officer Waline shoots Tobin a third time, ending the struggle.

One of the females present in the apartment confirms that Tobin continued to fight until he was shot the third time, and even after verbally exclaiming he had been shot.

The struggle lasted approximately two minutes.

During the struggle, Officer Waline and Officer King both attempted to radio for help with limited success. Other officers heard garbled yelling over the radio. Dispatch attempted to contact Officer King and Officer Waline without response. Other officers responded to assist. Shortly before other units arrive Officer Waline radios that shots have been fired, an officer is down and another man shot.

Numerous officers responded. Officer King was found unconscious on top of Tobin. First responding officers remove Officer King and handcuff Tobin as a precaution.

A .380 cal. handgun is located near Tobin.

EMT's pronounce Tobin deceased at the scene.

Interviews of Officers Waline and King and the two females present have been conducted. The interviews are consistent with each other and physical evidence.

## Injuries

Tobin – three bullet wounds:

Upper left shoulder, left to right, front to back.

Lower left flank, left to right, front to back

Center chest – front to back, slight left to right

Officer King – bullet wound through right ear, bruises and abrasions to face and head.

Officer Waline – abrasions. Bullet hole through right sleeve.

## Weapons

Tobin – 380 cal. Handgun. Fired three times. Three .380 shell casings recovered from scene.

Officer Waline – 9 mm Glock handgun. Fired three times. Three 9 mm casings recovered from scene. Malfunctioned once, one live 9 mm round recovered at scene.

Officer King – 9mm Sig Sauer handgun. Remained holstered and was never fired.

## Controlled Substances

Tobin was in possession of 49 grams of ICE methamphetamine, packaging material and cash.

Possession of a firearm would be a potential additional felony charge (incl. Federal).

These factors would be additional violations of his parole as well as new felony charges.

## Parole Warrant

Tobin was convicted and sent to prison on Felony Drug charges out of Cerro Gordo County, Iowa in 2015.

Paroled in February 2017, he absconded from parole and a warrant was issued September 11, 2017, which was pending on November 19, 2017.

## Legal Conclusion:

### Iowa Code Section 704.1 Reasonable Force

“Reasonable force” is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to life or safety, or the life or safety of a third party, or requires one to abandon or retreat from one's dwelling or place of business or employment.

The evidence shows the use of force by Officers King and Waline was reasonable under the circumstances. Both officers believed, with good reason, they were going to die if Tobin was not stopped. Specifically, Officer Waline's use of deadly force was reasonable. She believed it was necessary to resist a like force or threat and to avoid injury or death to herself and others.