



FIREARMS/DEADLY FORCE REVIEW BOARD REPORT

Incident: Police Officer Involved Use of Force
Officer Involved Shooting

Case Number: 2020-0046498

Dates of Review: January 28th, 2021
February 10th, 2021
February 11th, 2021
February 12th, 2021

Date Report Completed: March 8th, 2021

FIREARMS/DEADLY FORCE REVIEW BOARD

PURPOSE:

By way of policy, the Kenosha Police Department has established the Firearms/Deadly Force Review Board. The purpose of this board is to convene at the direction of the Chief of Police and review incidents of firearm discharges or other use of deadly force by sworn officers of the Kenosha Police Department.

The review board empaneled in this case consisted of five officers employed by the Kenosha Police Department from various assignments with extensive backgrounds, experience and expertise. The panel members and assignments are as follows:

- Captain Joe Labatore-Administration
- Lieutenant Desiree Farchione-2nd shift Patrol Supervisor
- Sergeant Frank Tessien-Training Division
- Officer Matthew Guardiola-Firearms Instructor
- Officer Steve Winter-Defense and Arrest Tactics Instructor

The Firearms/Deadly Force Review Board evaluated, in a fact-finding manner, each aspect of the officer-involved use of force incident reported on August 23rd, 2020 at 1711hrs under Kenosha Police Department case number 2020-0046498.

The evaluation included, but was not limited to, the following:

- A thorough review of the investigative reports
- A review of statements from officers and witnesses
- A review of the in-car video camera recordings
- A review of the dispatch audio recording
- Examination of evidence
- A review of the incident scene photographs
- A review of citizen recorded video of the incident
- A review of the Kenosha Police Department Policy and Procedure manual

Pursuant to Kenosha Police Department Policy 53.4, the Firearms/Deadly Force Review Board sought to develop findings and make recommendations to the Chief of Police in the following areas:

1. Whether the use of force was within policy, outside of policy, or accidental
2. Tactical and training considerations
3. The quality of supervision prior to, during and after the use of force incident
4. Potential disciplinary considerations
5. The quality of the post use of force investigative process

ACTIONS:

The Firearms/Deadly Force Review Board met on four separate occasions to review the incident.

- Thursday, January 28th, 2021 at 0800hrs to 1500hrs
- Wednesday, February 10th, 2021 at 0800hrs to 1500hrs
- Thursday, February 11th, 2021 at 0800hrs to 1500hrs
- Friday, February 12th, 2021 at 0800hrs to 1000hrs

All the meetings were conducted in the Chief's conference room inside the Kenosha Police Department. It should be noted that all members of the Review Board were provided with a comprehensive case review on USB flash drives which contained incident video, squad video, scene photographs, dispatch recordings and statements from the involved officers and citizens.

The Firearms/Deadly Force Review Board developed findings and recommendations which will be outlined in the remainder of this report.

POLICY REVIEW:

The Review Board reviewed the Kenosha Police Department Policy and Procedure manual, and we determined the following policies are relevant to this incident:

1.2	Code of Ethics
1.3	Use of Force
1.4	Range Training
1.8	Arrest
1.10	Search and Seizure
17.6	Safe Operation of Departmental Vehicles
21.5	Job Specifications – Lieutenant
21.6	Duties of Lieutenants
21.7	Job Specifications – Sergeant of Police
21.8	Duties of Sergeants
21.14	Job Specifications – Police Officer
26.1	General Rules and Regulations
41.1	Patrol
41.14	Mobile Video/Audio Equipment
42.3	Crime Scenes
42.8	Domestic Violence/Abuse/Restraining Orders/Injunctions
53.1	Uniforms, Inspection of Personnel and Officer Equipment
53.4	Firearms Discharge and Other Use of Force Investigations
81.1	Police Radio Communications
84.1	Property and Evidence Control

FINDINGS:

1. Whether the use of force was within policy, outside of policy or accidental.

- The Review Board found unanimously that Officers Arenas, Meronek and Sheskey's use of force and deadly force were within Policy 1.3 Use of Force.
- The Review Board found that Mr. Blake, by his own admission, was armed and continued to be so, despite being placed under arrest, by being physically restrained by uniformed officers restricting his movement, having Energy Conducted Weapons (ECWs) used against him and being struck with two focused strikes.
- The Review Board found that Mr. Blake was ordered several times to stop resisting and drop his knife. Mr. Blake was afforded several reasonable opportunities to stop resisting and drop the weapon. This was corroborated by eye witness accounts, cell phone video recordings and officer testimony.
- Officer Sheskey identified that Mr. Blake had actively resisted, and was now armed and moving toward the occupied vehicle. Fearing the child was now in imminent danger from

Mr. Blake, Officer Sheskey reasonably believed that Mr. Blake may also attempt to flee, (Despite his warrant for a violent felony), placing the public and child in the vehicle in harm's way, or hold the child as hostage.

- Officer Sheskey placed himself in harm's way, to protect the child in the vehicle and the public at large, by being in extreme close proximity to a deadly threat (observed armed threat, failing to follow lawful orders), was forced to use deadly force by Mr. Blake's actions of non-compliance to drop his weapon, moving toward an occupied vehicle and ultimately turning toward Officer Sheskey with a weapon in his hand, in what Officer Sheskey described as an attempt to stab him.
- Officer Sheskey's actions were consistent with training and WI Law Enforcement standards. He recognized that he faced an ***Imminent Threat*** in that Mr. Blake possessed a ***Weapon: (Knife)*** ***Intent:*** demonstrated by failing to follow orders to drop the knife, moving toward an occupied vehicle with weapon in hand, to which he could use to flee despite his warrant for violent felony, and Mr. Blake turning while armed toward Officer Sheskey demonstrated viable ***Delivery System:*** as he was in close proximity to Officer Sheskey when he turned toward Officer Sheskey, causing Officer Sheskey to reasonably fear he would be in danger of death or great bodily harm.
- The Review Board found that Officer Sheskey acted within the ***justification*** for deadly force as he recognized that Mr. Blake's actions imminently threatened to cause death or great bodily harm, to his person or the child in the vehicle.
- The Review Board found that Officer Sheskey met his target requirements of ***Acquisition*** by locating Mr. Blake. By ***Identify***, Mr. Blake as armed and in close proximity to a child and himself, recognizing the threat Mr. Blake posed, and ***Isolating*** Mr. Blake prior to use of deadly force (gunfire) by directing his gunfire in a downward trajectory away from persons and in toward the vehicle's engine block.
- Officer Sheskey intentionally used his firearm to stop what he believed was a deadly threat posed by Mr. Blake.
- Officer Sheskey stated he did not believe that any other reasonable means of force would have been appropriate given the facts of this case, thus he was ***precluded*** from other actions.

2. Tactical or Training Considerations

The training considerations that were discussed by the Review Board are as follows:

- Officer Sheskey was found by the Department of Criminal Investigation, to be in possession of 17 rounds of ammunition in his duty weapon at the start of his use of deadly force. It's unknown exactly how this occurred but may have occurred on his previous range qualification, in oversight.

A training recommendation is to have officers and range instructors be mindful of topping off their weapons when they are switching between range ammo and duty ammo.

- Recognizing that Officer Sheskey and other officers were under great stress in this critical incident, they did not secure Mr. Blake in handcuffs after their use of force. Officer Sheskey did conduct a search of Mr. Blake's person and then rendered medical aid.

A training recommendation is to have firearms instructors develop a training to staff on follow up considerations after an officer involved shooting incident.

- Based on his observations, Officer Arenas would have been justified using active counter measures to overcome Mr. Blake's active resistance against Officer Sheskey. Per Officers Arenas' interview, he did recognize that Mr. Blake was a deadly force threat. Mr. Blake was armed with a weapon, displayed the intent to use that weapon and had a working delivery system to cause death or great bodily harm. Based on Officer Arenas' interview he was effectively able to acquire that Mr. Blake was a threat. He was able to identify Mr. Blake as an imminent threat, but was unable to isolate that threat from Officer Sheskey.

The Review Board found that Officer Arenas will need to recognize continued resistance and assaultive behavior and respond accordingly with the force needed to effectively stop the known violent behavior he faces. Officer Arenas will also need to recognize when a tactic is ineffective and to raise his level of force to achieve compliance quickly. The Review Board recommends that a review on DAAT intervention options, follow-through considerations, target requirements and imminent threat criteria are appropriate.

- Probationary Officer Brittany Meronek, in her 1st Phase of the Field Training Program was the first on scene officer to identify Mr. Blake was armed with a knife and posed an immediate deadly threat. She would have been justified in attempting any countermeasures that could have secured Mr. Blake from escalating his violence towards officers or citizens. Probationary Officer Meronek identified that Mr. Blake had a weapon, intent to use that weapon and a fully functioning delivery system. There was no explanation of why no level of force was attempted by her to stop the perceived threat.

The Review Board recommends that a review on DAAT intervention options, follow-through considerations and deadly force training is appropriate.

- Officer Rusten Sheskey had the justification to make contact and arrest Mr. Blake. The tactics and force used by Officer Sheskey to attempt the arrest of Mr. Blake, were reasonable with his level of training and experience. A firearm would have been justified early on; however, Officer Sheskey chose a lower-level use of force option which proved ineffective.

The Review Board recommends that a review of the DAAT incident response model, intervention options and follow-through considerations be completed.

- Probationary Officer Meronek operated squad # 3339, with Officer Sheskey in the front passenger seat. Upon arrival, Probationary Officer Meronek parked squad 3339 facing northwest on the west side of 28th Avenue, near 40th Street. Therefore, she was parked in the southbound lane, facing oncoming traffic. The squad was positioned in such a way as to obstruct the traffic lane and no emergency or hazard lights were utilized. The rapidly developing and chaotic nature of this scene likely lead to this misjudgment. However, in an ideal situation, the squad car would have been legally parked or emergency lighting equipment should have been used.

The Review Board recommends a review of Kenosha Police Department Policy 17.6 Safe Operation of Department Vehicles. This policy requires departmental vehicles to be used in a "safe, responsible, intelligent and lawful manner at all times".

3. The quality of supervision prior to, and after the use of force incident:

- Sergeant Jurgens was the first supervisor on scene. Once the scene was assessed, Sergeant Jurgens had a detective remove the officer who fired his weapon from the scene. Lieutenant Patton arrived on scene shortly after and assumed command of the scene. Lieutenant Patton established a command point which was located approximately a block away from the initial scene, and the Kenosha County Sheriff's office was called in to take control of the initial crime scene. As the scene unfolded and the area became volatile due to large angry crowds gathering, it was not reasonable to remove all the Kenosha Police Department officers from the area, as would have happened in past Officer Involved Shooting situations. The Department of Criminal Investigation was contacted and arrived on scene. The evidence was gathered and after a Kenosha police supervisor was struck with a brick and injured, it was determined that the crime scene could not be held for any significant time.

The Review Board finds that the initial quality of supervision was appropriate and that the immediate needs of the department were met. The Review Board identified several training considerations for supervisors:

After reviewing the radio traffic, the immediate on-scene supervisor should clearly identify that he/she is in "command" to Dispatch to eliminate the confusion when multiple supervisors are on scene and to assist with establishing a defined communication line for Dispatch and officers to follow.

Sergeant Jurgens did not gather a public safety statement from Officers Sheskey, Arenas and Probationary Officer Meronek. A public safety statement was gathered verbally over the phone a short time later. The Review Board recommends all supervisors should be trained or have reviewed the Officer Involved Shooting protocols and supervisory responsibilities for use of force incidents that involve great bodily harm or death.

The Review Board observed that the initial Kenosha Police Department crime scene log which was produced was lacking in information. There were sign-in names on the log but there were no sign-out names or times. The Review Board acknowledges that the deficiencies could have been a direct result of the large, hostile, aggressive crowds that formed requiring the need for multi-agency support to keep the crime scene secured.

4. Potential disciplinary considerations:


There were no disciplinary recommendations made by the Review Board.

5. The quality of the post use of force investigative process


The Review Board found that all necessary notifications were made per Kenosha Police Department policy which included the notifying of the Senior Management Team, Detective Division, Kenosha County Sheriff's Department and the Department of Criminal Investigation.

The post investigative process was conducted by an outside agency per state law and Kenosha Police Department policy. All the necessary evidence was documented and gathered by the Department of Criminal Investigation.

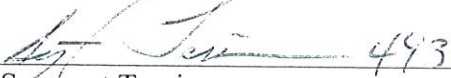
The review of the material in the incident supports the officers account of the incident. The analysis of the evidence collected by an outside independent agency found no evidence to contradict the officers' account of this Use of Force Incident.




Captain Joe Labatore



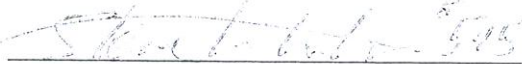
Lieutenant Farchione



Sergeant Tessien



Officer Guardiola



Officer Winter