

**OFFICE OF THE DISTRICT ATTORNEY  
OZAUKEE COUNTY**

**ADAM Y. GEROL**  
**DISTRICT ATTORNEY**

**ASSISTANT DISTRICT ATTORNEYS**

Benjamin Lindsay  
Kerra Stumbris  
Antonella Alemán-Zientek  
Kristian Lindo

Ozaukee County Justice Center  
1201 S. Spring Street • P.O. Box 994  
Port Washington, WI 53074-0994  
Phone: (262)284-8380 • Fax: (262)284-8365

**VICTIM/WITNESS ASSISTANCE**  
Lisa Haasch *V/W Coordinator*  
Jill Nitschke *Asst. V/W Coordinator*

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**TO:** Senior Special Agent Shannon Jones  
Special Agent Jacob Jansky  
Chief Patrick Pryor

**FROM:** Adam Y. Gerol *AYG*  
District Attorney

**RE:** Pietro La Licata  
DCI Case # 23-3991  
DA Case #2023OZ000793

**DATE:** June 29, 2023

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Wis. Stat § 175.47 Review of deaths involving officers, requires an outside agency to investigate and examine the circumstances of any law enforcement conduct that results in the death of another. Here, the Wisconsin Department of Justice, Division of Criminal Investigation conducted the investigation and tendered their file to the Ozaukee County District Attorney for review. I have examined those materials and conclude that there is no basis to consider or issue criminal charges against any of the law enforcement officers involved in this incident.

A law enforcement officer may use deadly force where he has probable cause to believe that an armed suspect poses a threat of serious physical harm, either to the officer or to others. Siler v. City of Kenosha, 957 F.3d 751 (7th Cir. 2020), citing Muhammed v. City of Chicago, 316 F.3d 680, 683 (7th Cir. 2002) This is an objective assessment, viewed from the perspective of a reasonable officer on the scene and in light of the totality of the circumstances. Graham v. Connor, 490 U.S. 386, 396, 109 S. Ct. 1865, 104 L.Ed.2d 443 (1989). When an officer believes that a suspect's actions place him, his fellow law enforcement officers, or those in the immediate vicinity, in imminent danger of death or serious bodily injury "the officer can reasonably exercise the use of deadly force." Muhammed, 316 F.3d at 683.

On May 17, 2023 at approximately 3:13PM, Mequon Police Officers were dispatched to 3119 Bonniwell Rd, in the City of Mequon, Ozaukee County, Wisconsin for a report of a subject who had shot at his neighbor. That neighbor later gave a statement:

Earlier that day, at approximately 3:13 p.m. Victim A had been cutting grass in his back yard, using his riding mower. Victim A stated he was wearing sunglasses, a hooded sweatshirt and had ear buds in. When he approached the east end of his property, he observed Pietro La Licata, his neighbor, standing outside the door of La Licata's sun room area holding a long gun. As Victim A went past, he heard a gunshot. Victim A turned his head to see La Licata pointing the gun at him. Victim A raised his hand and cried out for La Licata not to shoot, continuing to drive away from him on the lawn mower, toward the west side of the house. Victim A believed La Licata was holding a shotgun. Victim A believed La Licata was going to shoot him and was fearful for his life.

Once Victim A got to the west side of his house, he got off of the tractor mower and hurried inside of his residence. He told his wife, ... and son, ... to go into the basement and ...called 911. \_\_\_\_\_ also retrieved his own handgun from inside the residence and carried it with him as he and his family took shelter in the basement. Victim A stayed on the phone with 911 until they told him to hang up and police would be calling him. A short time later police did contact him by phone and told him to remain in the residence while they were working on a strategy to deal with the situation. ...

Mequon Police Detective Wegner and Officer Vasos obtained a phone number for Pietro La Licata. Detective Wegner was in communication with one of La Licata's sons, and then attempted to contact La Licata but all of his attempts went "straight to voicemail." Detective Wegner was also aware that La Licata's son was trying to do the same, with the same result. Officer Vasos was exercising some of the operational command at the scene, positioning officers for security. Mequon Police Department (MPD) Officers William Van Laanen and Steven Beattie were assigned to establish a perimeter south of La Licata's residence. There, Officer Van Laanen took a position by a large tree to observe the southwest corner of the residence and Officer Beattie took a position by a shed to observe the southeast corner. This allowed both of them to see the area sometimes described as 'the sunroom.' After they took up their locations, Officer Gensrick joined Officer Van Laanen by the tree, and then Officers Boinski and Bottoni established a perimeter on the north side of the residence. Other officers from other agencies arrived to assist as well. At or around this time the officers learned that there had been a warrant issued for Pietro La Licata's arrest.

Officer Vasos told DCI investigators that she heard Officer Van Laanen state over the radio that the suspect had a gun. Together with Sgt. Ronan, Deputy Ganey, and Deputy Navis, one of which was carrying a ballistic shield, she began running toward his location. She then heard Officer Van Laanen requesting "clearance for the shot," to which she responded that he had clearance as long as the suspect knew he was law enforcement and their presence had been announced. Officer Vasos recalled that as Officer Van Laanen was requesting clearance, she heard "one gunshot, a pause, and then two more." Officer Vasos said that two of the gunshots sounded the same, but the last one was "distinct and loud." She reported that when she was south of the residence, she could see an open window to the sunroom and "pellets" in the tree by where Officer Van Laanen and Officer Gensrick were located.

Officer Gensrick reported that Officer Van Laanen had been standing slightly in front of him and told him that he could see the suspect in the window of the sunroom. Officer Gensrick stated that

he peeked out from behind the tree that was providing him with cover and observed the suspect walking in the sunroom (south) towards the second or third bay window (from the southwest corner) holding a dark colored long gun. Officer Gensrick had been at the residence a month earlier, visiting La Licata with an Adult Protective Services worker. From this visit, Officer Gensrick was aware that the window the suspect was walking towards did not have a screen. Officer Gensrick said that he was aware that if the suspect wanted, he could just open the window and with no obstructions could shoot freely. As the suspect began opening the window, Officer Gensrick and Officer Van Laanen were both behind the tree, and Officer Gensrick crouched down so that the ballistic shield he was using could also cover him.

Officer Gensrick described for the DCI investigators how the officers were positioned: La Licata's house was approximately 60 yards to the north of the officers, then the tree, then Officer Van Laanen, then the shield, and then Officer Gensrick behind the shield. After the suspect opened the window, and Officer Gensrick was already crouched down, Officer Gensrick heard 2-3 rapid in succession shots, and knew that the shots were being directed from the sunroom towards Officer Gensrick and Officer Van Laanen because he felt the impact of dirt hitting his left shin as the shots were being fired. As this was happening he yelled out towards La Licata's residence "Pietro this is the Mequon Police Department" to see if this would stop the suspect from shooting at them. Officer Gensrick stated that his announcement did not receive a response.

When Officer Gensrick did not get a response from the shooter or anyone else in the house, he "creeped" up with his shield to view the residence through the fork of the tree that he was behind. Officer Gensrick observed a subject in a blue shirt retreating from the sunroom back into the house. That person was ultimately identified as La Licata. Officer Van Laanen then stood up and placed his rifle in the fork of the tree in order to maintain his cover from the residence. Officer Gensrick stated that as the suspect retreated further into the residence, Officer Van Laanen repositioned himself with his rifle. Officer Gensrick stated that he was trying to decide whether or not they should move locations due to already having been shot at where they were located. Officer Gensrick believed that this meant that the suspect knew where they were and could decide to come back and continue shooting at them. As Officer Gensrick was internally weighing his options, he saw the suspect return to the same bay window which was still open. Officer Gensrick moved so that he was again behind the tree for cover because he had assumed that the subject was still armed. Officer Gensrick stated that Officer Van Laanen maintained his position with lethal cover on the residence. Officer Gensrick then heard one shot that he knew came from Officer Van Laanen's rifle.

Officer Beattie had been in a position to observe the sunroom, Officer Beattie reported that he observed the barrel of a black gun, which he thought was a rifle, sticking out of a south facing window of the sunroom. Officer Beattie said that the barrel was not pointed at him, but was pointed in the direction that he knew Officer Van Laanen and Officer Gensrick were located. Officer Beattie recalled hearing three shots fired, not in rapid succession, but one right after the other. Officer Beattie said that "there was no doubt in his mind" that the shots were being fired from the house in the direction of Officer Van Laanen and Officer Gensrick. Officer Beattie recalled seeing the gun barrel retract after the three gunshots. Officer Beattie said that he stood up and moved south to a different location behind a gravel pile in order to "get eyes on" Officer Van Laanen and Officer Gensrick. Officer Beattie stated that he was then able to then see that they were "okay."

Officer Beattie stated that while he was repositioning he looked through his rifle and could see a subject carrying a long gun in a vertical position from the sunroom into the house. Once Officer Beattie returned to his original position, and confirmed the other two officers were okay, he again took a prone position. He then heard Officer Van Laanen broadcast over the radio that the subject was coming back, after which he heard a single gunshot. Officer Beattie described that gunshot as different in sound from the first three gunshots he had heard. He stated that this gunshot was much louder than the first three, describing the first three as “muffled,” as if they were coming from inside the house. Officer Beattie could tell that the last gunshot came from the area where Officers Van Laanen and Gensrick were located.

Officer Van Laanen had observed the subject in the sunroom’s south window and saw him raise a long gun, and then point it in his direction. He was in uniform, as were all of the officers performing perimeter security. When the gun was pointed, he ducked down for cover behind the rear of the tree he was behind. There was then a shot, and after the first shot he heard objects (projectiles) striking the tree he was using for cover. After 2 – 3 seconds, there was another shot with objects (projectiles) again striking the tree. At this point Officer Gensrick transmitted via police radio, “Shots Fired at Police!” There was another pause of 2 -3 seconds before another shot, with objects (projectiles) again striking the tree. He then heard Officer Gensrick yell out: “Pietro! It’s the Mequon Police Department!” Officer Van Laanen was able to position his rifle in a section of the tree for support. He said that he then radioed Command and inquired about his ability to return fire. However, before receiving a response, the subject reappeared in the sunroom area causing him to get off the radio. Officer Van Laanen told the DCI Agents that he could see that the subject was still armed with the long gun. Officer Van Laanen saw him raise the weapon and point it in the direction of both himself and Officer Gensrick. At this point he shot his rifle one time, saying that he did so because he believed the subject was going to shoot at them again and that he feared for their lives. After the single shot he saw the subject go down, but was unsure if he had fallen or was repositioning himself and waiting for future conduct by the police. Ultimately it was determined that Officer Van Laanen’s shot had stuck La Licata in the head, resulting in his death.

All of the body cameras were uploaded to the DCI database under the supervision of DCI investigator DFE Ruff. After supervising the upload, DFE Ruff drove to the decedents residence to examine the security camera system. Upon arriving, DFE Ruff noted six cameras mounted to outside the residents, which were physically wired under drywall to a Network Video Recorder DVR system. After using the password provided by the decedent’s family, DFE Ruff observed that no video was stored, and the device had been set to show live footage with no recordings. DFE obtained a flash drive from the Ozaukee County Sheriff’s Department that had copies of the 911 call, dispatch calls, body camera footage from Saukville police and a CAD report.

DCI Agents reviewed all the body camera recordings of the officers that had responded, together with all radio traffic. Officer Van Laanen’s recording revealed:

- 01:17:10 – One shot was heard. View obstructed by the tree.
- 01:17:11 – Recording Officer stated, “One shot!” View obstructed by the tree.
- 01:17:13 – Second shot was heard. View obstructed by the tree.
- 01:17:14 – Other subject stated, “Second shot at the police!” “Pietro. It’s the Mequon Police Department!” View obstructed by the tree.
- 01:17:20 – Third shot was heard. View obstructed by the tree.

01:17:24 - Recording Officer stated, "God darn it. Can you see?" View obstructed by the tree.

01:17:46 - Recording Officer stated, "Well, he knows our position now. Shot three times. Hit the tree. I don't know if we should move now. He knows out position. Cause I don't know where he is going to come back out. Yeah. I don't know." View obstructed by the tree.

01:18:42 - Recording Officer stated, "935. If he come back to the sunroom and I have a shot, am I able to take it?" View obstructed by the tree.

01:18:47 - One shot was heard. View obstructed by the tree.

During the course of the scene examination, DCI Agents collected the following items of evidence:

23-3991.1 - One fired cartridge case - 223 REM - recovered from the grass north of the tree along the south edge of the property.

23-3991.2 - One fired shot shell recovered from sidewalk south of three season room - 20 gauge Winchester.

23.3991.3 - One fired shot shell - Federal Upland 2 3/4 inches 20 gauge recovered from stones next to sidewalk on west side.

23-3991.4 - One fired shot shell recovered from SW corner of three season room on the floor - Federal Upland 23/4 inch 20 gauge.

23-3991.5 - P Beretta shotgun model AL2-20 gauge with leather strap recovered from floor of three season room SN: A15047E - Empty

23-3991.6 - P Beretta shotgun with one Winchester 12 gauge in chamber, model 303 cal 12, SN: L45469E recovered from window ledge with apparent bloodstains.

23-3991.7 - Two unfired shotshells Schonebeck 12 recovered from the floor of three season room.

23-3991.13 - One shot wad/cap from shotgun shell green in color recovered from rear yard

23-3991.14 - One shot wad/cap from shotgun shell clear/white in color recovered from rear yard.

One of the shotguns listed above was found partially protruding through an open window. The execution of a search warrant revealed seven more shotguns, and two handguns positioned in different locations within the living space. All of the police weapons of the responding officers were collected and/or examined. Only one shot appeared to have been fired by law enforcement. The spend casing, item 23-3991.1, was of a type used by the Mequon Police Department in their department issued rifles. This casing was retrieved in the area where it would have been ejected by Officer Van Laanen's rifle.

A review of law enforcement records revealed a lengthy history of contacts with Pietro La Licata, often for episodes of violence and/or threats of violence. His more recent history involved troubling interactions with his neighbors. Victim A reported that La Licata had been

acting increasingly paranoid, accusing him of spying on him with an electrical pole, with a birdhouse camera, and with a secret camera in his garage. La Licata had accused him of poisoning La Licata's dogs, having attached a razor blade collar to Victim A's own dog, and of trying to flood La Licata's house. Victim A reported that La Licata would complain to him in an aggressive manner, but until recently had been able to 'talk him down.' However, recently, La Licata drove his lawn mower up Victim A's driveway and began arguing with him about floodlights that La Licata claimed were pointed at La Licata's home. Victim A reported that during this incident, La Licata tried to punch him. La Licata had recently told another neighbor that if the neighbor's dogs came onto La Licata's property he would kill them. DCI investigators learned from the decedent's son that he was afraid that his father would shoot him, and because of this he had avoided coming by to visit him for several years. La Licata's daughter reported that she had lived with La Licata in the fall of 2022, however she became afraid of her father after he choked her. Many neighbors stated that the decedent was frequently shooting guns on his property, day and night.

DCI SA McNichol spoke with witness EM, who related his experiences with the decedent. He was able to identify La Licata after consulting a map. EM stated that 2 to 3 years earlier he had been to La Licata's property to take photographs of the ongoing flooding of the Milwaukee River (which is located just East of the decedent's home). While there he saw a large buck and attempted to get a picture of it. He followed the buck up a driveway and towards the river before turning around to walk back to his vehicle. EM stated that he was then confronted by a man in the driveway holding an AR-15 type rifle who was irate over the fact that he was on his property. EM said that he tried to diffuse the situation by attempting to befriend the man, telling him that he loved guns. The man ultimately invited him into his home and showed him a closet that he had outfitted as a gun storage cabinet. EM recalled seeing 3-4 long guns in the lower part of the closet, 5-6 handguns on top, plus a concealed area (visible by removing screws from the handgun storage area and lifting a shelf, then looking down into a compartment) that contained an additional 7-8 long guns. EM also observed a large amount of ammunition, estimating that the decedent had 1,500 - 2,000 rounds stored. EM stated that he became concerned because the man 'appeared to have problems.' He would speak normally about a subject, in a pleasant tone and in a manner which made sense, but then would suddenly get very upset and yell things like: "I'll kill the motherfuckers!" EM said the man would then return back to a conversational tone. EM recalled the man saying he was highly distrustful of the police, and telling him that he was going to put bulletproof glass on all his windows.

Police records reveal 27 calls for service to the decedent's residence over the last 40 years, with 3 in 2023. The earliest reports that could still be recovered related to the Advocate's shelter asking the police to follow up and investigate 'family trouble and a gun' in 1983. The complainant in that incident reported a history of violent family trouble, and that La Licata had threatened her with a gun. She went on to state that La Licata had 10 weapons, and that he had recently begun keeping a revolver on the nightstand to threaten her with. Several years later, the same victim reported that La Licata had threatened to kill her, and held a trowel to her throat. This police contact history included other reports of domestic violence, various restraining orders, injunctions, and other incidents. Ozaukee County District Attorney records demonstrate that there had been active prosecutions against La Licata in February 1983, and August 1990 for charges of Battery. These files, however, had been destroyed.

DCI agents spoke with La Licata's family members. His son stated that he hadn't had in person contact with his father in several years due to his agitated behavior. He stated that since his step mother had left 8 years earlier, his father had declined. He described his father as paranoid, that his father would hide firearms around the residence and that during COVID his father had become even more paranoid, isolating himself from family and friends. In April 2023 relatives reported that they believed La Licata was suffering from dementia. Law enforcement followed up by making contact with La Licata, who told them that he believed his neighbors were 'messing' with his cameras and with his screen door. The responding officer contacted Adult Protective Services to follow up, and spoke with a representative of this agency on April 17, 2023. MPD Officer Gensrick and an Aging Services (APS) worker met with La Licata on that same date. APS later reported to SA McGrath that APS had received referrals from 3 different people that had called about La Licata. All three had reported concerns about La Licata becoming agitated, shooting guns at night, possibly having dementia and being a danger to himself and others. The APS worker met with the decedent at his residence but found him to be properly oriented and alert. While the worker did see firearms in the residence, the decedent was welcoming and non-threatening. She concluded that there was not a basis to pursue formal APS action at that time.

### Conclusion.

After reviewing the complete investigation file, it is my opinion that Officer Van Laanen was justified to use deadly force in this case. I cannot see any other reasonable alternative that was available given the behavior that he was confronted with. While Officer Van Laanen was privileged to use deadly force to protect himself and others, it is also my opinion that what was done was necessary and required in the exercise of the officer's duty to safeguard the public and enforce the law.

There was also no other effective option at the moment that Officer Van Laanen fired. While MPD knew that the joint tactical team was staging to effectuate an arrest of the defendant, La Licata's conduct forced the issue. The officers were not in a safe location where they could simply ignore the defendant shooting at them. Neither the tree, nor the ballistic shield at hand, offered reliable protection or safety. The decedent was using an effective weapon, and his rounds were impacting near them. To the extent that these officers may have had any type of shelter from La Licata, they were also aware of many other officers nearby who might not have any protection at all. Neither Officer Van Laanen, nor Gensrick, nor any of the other officers nearby, had a reasonable ability to retreat had they wanted to. See Wis. JI Criminal 810. And had they done so that would have meant losing track of the shooter and creating a situation where he might escape or continue to threaten and attack members of the public.

It was entirely reasonable that Officer Van Laanen believed that he was confronted by the threat of death or great bodily harm by La Licata, and that his fellow officers were as well, when he fired the single shot in return. In retrospect we know that La Licata had secured a primary and secondary weapon, and that he had additional ammunition at hand that he was prepared to use against the police officers. It is readily obvious and apparent that La Licata was not going to surrender unless or until he was shot.

Absent any role as a police officer, an ordinary citizen may use deadly force in self-defense when they are reasonably confronted by an assault by another that would put a reasonable person in fear of their own imminent death or great bodily harm. Wis Stat § 939.48.

**JI-805. PRIVILEGE: SELF-DEFENSE: FORCE INTENDED OR LIKELY TO CAUSE DEATH OR GREAT BODILY HARM - SECTION 939.48**

**Self-Defense**

... The law of self-defense allows the defendant to threaten or intentionally use force against another only if:

- \* the defendant believed that there was an actual or imminent unlawful interference with the defendant's person; and
- \* the defendant believed that the amount of force the defendant used or threatened to use was necessary to prevent or terminate the interference; and
- \* the defendant's beliefs were reasonable.

The defendant may intentionally use force which is intended or likely to cause death or great bodily harm only if the defendant reasonably believed that the force used was necessary to prevent imminent death or great bodily harm to (himself) (herself).

**Determining Whether Beliefs Were Reasonable**

A belief may be reasonable even though mistaken. In determining whether the defendant's beliefs were reasonable, the standard is what a person of ordinary intelligence and prudence would have believed in the defendant's position under the circumstances that existed at the time of the alleged offense.<sup>3</sup> The reasonableness of the defendant's beliefs must be determined from the standpoint of the defendant at the time of the defendant's acts and not from the viewpoint of the jury now.

Putting aside Officer Van Laanen's role as a police officer, any reasonable person in his shoes would have believed that the use of deadly force was necessary in that moment to save their own life. Shotgun rounds were impacting immediately near him. La Licata obviously knew that he was shooting at human beings. Officer Van Laanen did not act precipitously, having even attempted to consult with his commanders before returning fire.

There is also a common law privilege for law enforcement officers to use deadly force when making an arrest. JI Criminal 884 states:

**JI-885. PRIVILEGE TO USE FORCE: REASONABLE ACCOMPLISHMENT OF A LAWFUL ARREST BY A PEACE OFFICER: DEADLY FORCE**

**Use of Force by Peace Officer**

The use of force by a peace officer is an issue in this case. The law allows a peace officer to use force in making a lawful arrest only if:

- \* the defendant believed that it was necessary to use force to make an arrest;
- and,



\* the defendant believed that the amount of force used was necessary to secure and detain the person arrested, to overcome any resistance, to prevent escape, or to protect himself from bodily harm; and,

\* the defendant's beliefs were reasonable.

The defendant may intentionally use force which is intended or likely to cause death or great bodily harm in making a lawful arrest only if (he) (she) believed that such force was necessary to prevent the escape of (name of victim) and believed that (name of victim) posed a significant threat of death or serious physical injury to the defendant or others.<sup>3</sup>

#### Determining Whether Beliefs Were Reasonable

A belief may be reasonable even though mistaken. In determining whether the defendant's beliefs were reasonable, the standard is what an ordinary, prudent, and reasonably intelligent officer would have believed in the defendant's position, having the knowledge and training that the defendant possessed, and acting under the circumstances that existed at the time of the alleged offense.<sup>4</sup>

Here, law enforcement was clearly in possession of a warrant for La Licata's arrest before the shooting began. That warrant was for the earlier episode of the defendant shooting at his neighbor. Arguably, the officer's conduct could be justified as an effort to take La Licata into custody, however this was not the stated subjective reason for shooting back at La Licata. As such, I recognize this as another justification for the use of deadly force, but I am not applying this reasoning here.

After reviewing the investigation into this episode I conclude that there is no basis to prosecute Officer Van Laanen, or any other officer involved in this death. The consequences to all involved are terrible and unfortunate. It appears that La Licata's mental state had in fact declined to such a state that he had become a danger to himself and others. Pietro La Licata forced Officer Van Laanen into the situation where there was nothing else he could do in obedience to his oath to protect the public, and the good faith exercise of his professional duties.