

SUMMARY REPORT FOR OFFICER-INVOLVED DEATH OF DUSTIN M. KUIK

This report will serve as the investigative summary for the officer-involved death (OID) of Dustin M. Kuik that occurred at the Quality Inn, 1978 Holmgren Way, Ashwaubenon, Brown County, Wisconsin on Wednesday, September 9, 2015. Ashwaubenon Department of Public Safety (ASPD), Public Safety Officer (PSO) Brian Murphy shot Kuik in the chest. The incident began with an attempt to conduct a high-risk traffic stop on the vehicle Kuik was driving. In the parking lot of the hotel, Kuik exited the vehicle, holding a handgun to his head. Kuik walked backwards towards the hotel, entered the hotel lobby, and was shot by PSO Murphy. PSO Murphy shot his weapon four (4) times hitting Kuik once in the chest and once in the lower right leg. Kuik also shot himself in the head. No other law enforcement officer(s) fired their duty weapon, during the incident.

LAW ENFORCEMENT REQUEST FOR DCI INVESTIGATION

As a result of the incident, at approximately 2:00 a.m., ASPD Chief Dunning requested the Wisconsin Department of Justice (DOJ) – Division of Criminal Investigation (DCI) to respond as the lead investigative agency pursuant to Wisconsin State Statute § 175.47(3). It was agreed DCI would lead the OID investigation. SAC Sasse assigned Special Agent (S/A) Yerges as the lead case investigator and S/A Schallhorn as the assistant case investigator.

Special agents from the DCI Appleton Regional Field Office responded to the OID scene and located witnesses; identified involved law enforcement officers; conducted interviews, area-wide canvasses, and walk-throughs; analyzed, processed, and documented the scene; and identified, documented, collected, and preserved evidence, documents, and recordings. The summary report was prepared pursuant to the statutory requirement of Wisconsin State Statute § 175.47(5).

The following summary contains information obtained during DCI's investigation of the OID incident:

BACKGROUND INFORMATION

Kuik was a suspect in an armed robbery of a convenience store in Mishicot, Wisconsin that occurred on 09/07/15. On 09/08/15, Manitowoc County Sheriff's Office (MTSO) investigators had been in repeated telephone contact with Kuik and his girlfriend. MTSO investigators had scheduled to meet with Kuik's girlfriend on 09/09/15 to discuss the investigation.

Investigators had back-and-forth telephone conversations with Kuik and the girlfriend during night time hours on 09/08/15 and during early morning hours on 09/09/15. Investigators learned that Kuik and his girlfriend were registered at the Quality Inn in Ashwaubenon (1978 Holmgren Way) and that they were in a sport utility vehicle (SUV). The vehicle they were driving was determined to be a white-colored 2006 Hyundai Tucson sport utility vehicle bearing Wisconsin license plate registration number 726-ULF. MTSO investigators requested ASPD to

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attempt-to-locate Kuik, the girlfriend, and the suspect vehicle associated with their on-going investigation.

Shortly after 1:00 a.m., on 09/09/15, ASPD PSO Fassbender observed the suspect vehicle driving northbound on Oneida Street at Marvelle Lane in the Village of Ashwaubenon. The suspect vehicle continued northbound past PSO Fassbender's location. PSO Fassbender observed the vehicle license plate that matched the information provided to him by dispatch. PSO Fassbender broadcasted by police radio that he was behind the suspect vehicle. When PSO Fassbender was on Oneida Street near Potts Avenue/Mike McCarthy Way, PSO Fassbender heard over police radio that PSO Murphy was behind PSO Fassbender.

PSO Fassbender followed the suspect vehicle eastbound onto Lombardi Avenue and then southbound onto Holmgren Way. Over the radio, ASPD Lieutenant (Lt.) Riha directed PSO Fassbender to stop the suspect vehicle.

PSO Fassbender reported after the suspect vehicle turned on to Holmgren Way, he activated his lights and siren, but the suspect vehicle did not stop. The suspect vehicle continued westbound onto Armed Forces Drive. The suspect vehicle then turned into the parking lot of the Quality Inn at the Armed Forces Drive entrance. The suspect vehicle parked in a handicap stall near the hotel's front doors. The suspect vehicle was followed into the parking lot by PSO Fassbender; who was followed by PSO Murphy. PSOs Fassbender and Murphy attempted to conduct a high-risk traffic stop on the suspect vehicle. PSO Fassbender exited his patrol vehicle and took out a rifle. PSOs Fassbender and Murphy observed additional individuals in the vehicle. PSOs Fassbender and Murphy started giving commands to the individuals inside the suspect vehicle. Lt. Riha arrived on the scene, parked on the street, and joined the PSOs in the parking lot.

The driver of the vehicle, later identified as Dustin M. Kuik, did not follow police commands. Kuik exited the vehicle with a handgun held to his head. Kuik walked backwards toward the hotel and entered the lobby. Kuik was shot with a service pistol by PSO Murphy in the hotel lobby. Kuik shot his handgun and sustained a self-inflicted gunshot wound to the head. Kuik was transported from the scene to a local hospital and was later pronounced dead. No other individual, including law enforcement officers, sustained physical injuries as a result of the incident.

The vehicle Kuik had been operating was occupied by three other people to include Kuik's girlfriend and the girlfriend's two young children. The investigation revealed that Kuik, the girlfriend, and the children were going to be staying as guests in room #107 of the Quality Inn.

HOTEL SCENE DESCRIPTION

The Quality Inn was an "L" shaped, two-story hotel, located on the corner of Holmgren Way and Packer Drive, Ashwaubenon, Brown County, Wisconsin. There are 77 guest rooms inside the hotel. PSO Fassbender's patrol vehicle (7) was moved to a different location by PSO Fassbender

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prior to DCI arrival. PSO Fassbender originally moved his patrol vehicle to allow the ambulance room to approach the scene. When PSO Fassbender moved the patrol vehicle, he shut off the dash camera.

The main entrance to the hotel was through a pair of glass doors that faced the hotel parking lot. The hotel had a reception desk in the lobby that allowed a view into the parking lot of the hotel. A desk attendant staffed the reception desk.

WITNESS INTERVIEWS

Eighteen (18) canvass interviews were conducted by DCI agents with individuals who were on the hotel premises, at the time of the incident. Ten (10) of the eighteen (18) individuals heard and/or observed some of, or part(s) of, the incident including hearing law enforcement “commands” or “yelling.” Several guests were awakened to the sounds of sirens or loud voices. Some guests were alerted to, or awoke to, emergency lights. Some guests heard varying numbers of “shots” or “gunfire.” The following are the accounts from the ten (10) witnesses who observed the incident:

WITNESS E.S.

E.S. was the hotel desk attendant who confirmed to MTSO investigators that Kuik and Kuik’s girlfriend were registered to room #107. Prior to the incident, E.S. observed Kuik’s girlfriend arrive and depart in a SUV. E.S. observed police cars and the SUV in the parking lot of the hotel at approximately 1:30 a.m. on 09/09/15. E.S. observed officers with guns drawn and pointed at an individual. E.S. heard verbal commands from law enforcement and three gunshots. E.S. observed a body lying on the lobby floor with a chest injury and a large amount of blood coming from his head. E.S. observed law enforcement enter the lobby and assess the individual for injuries. E.S. observed emergency medical services (EMS) personnel remove the body from the lobby floor.

WITNESS R.N.

R.N. was Kuik’s girlfriend. R.N. was in the vehicle at the time of the incident along with her two children. R.N. received telephone calls from MTSO investigators on the night of 09/08/15. R.N. knew Kuik was a suspect in an armed robbery. R.N. listened to telephone conversations Kuik had with MTSO investigators on the night of 09/08/15 and early morning hours of 09/09/15. R.N. was inside the suspect vehicle when they were followed by law enforcement. Law enforcement began following their SUV approximately two blocks away from the hotel. R.N. stated they were approximately one-quarter block away from the hotel when the patrol vehicle’s emergency lights flickered. R.N. stated law enforcement attempted to stop their vehicle driven by Kuik. R.N. stated Kuik pulled into the hotel parking lot and parked. R.N. heard law enforcement officers yelling at her. R.N. stated Kuik informed her he was not going to get out of the vehicle. R.N. observed Kuik had her handgun on his lap. R.N. described her handgun as a 9mm Taurus

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P111 pistol. R.N. begged Kuik for a couple of minutes to put the gun away because she thought he was going to shoot himself. R.N. stated she knew Kuik was a convicted felon from a previous armed robbery and that he had been in prison after his conviction. R.N. stated anytime Kuik talked about his time in prison, he said he would shoot himself in the head before he would go back to prison. R.N. stated Kuik had made the statement as recently as one week ago. R.N. exited the vehicle with her two children and walked them toward the lobby doors. R.N. observed Kuik get out of the vehicle with the gun to his head. R.N. heard Kuik advise officers, "You better not come any closer to me." R.N. observed Kuik walk past her into the hotel lobby. R.N. was not looking in the officers direction at the time of the shooting but heard three shots and glass breaking. R.N. observed broken glass but did not see Kuik after she heard the shots.

WITNESS J.S.

J.S. was an overnight guest at the hotel and inside guest room #137 during the incident. Hotel room #137 windows faced the hotel parking lot. J.S. heard police give commands to occupants of a parked car in the hotel parking lot. J.S. observed one police officer with his handgun drawn and another police officer holding a rifle. J.S. observed two adult occupants inside the front seats of a vehicle with two children in the back seats. J.S. observed a male as the driver and a female as the passenger of the parked car. J.S. observed the female exit the vehicle at the commands of law enforcement and remove the children from the back seats. J.S. observed the female take the children toward the hotel lobby entrance. J.S. heard law enforcement give commands to the driver. J.S. stated the driver ignored the commands and lit a cigarette. J.S. heard officers tell the driver to put his hands up but the driver did not respond to the officers. J.S. observed the driver get out of the vehicle, face officers with a handgun held against his head, and walk backwards toward the hotel lobby. J.S. said officers yelled, "Drop your gun," at least three to four different times. J.S. heard verbal commands from law enforcement and observed the officer with the pistol shoot at the driver. J.S. heard approximately three shots fired.

WITNESS A.H.

A.H. was an overnight guest at the hotel and inside guest room #139 during the incident. Room #139 windows faced the hotel parking lot. A.H. woke on 09/09/15, at approximately 1:15 a.m., hearing loud police commands. A.H. observed emergency lights through his hotel room window. A.H. observed numerous law enforcement officers present. A.H. observed a woman with children near a white-colored SUV parked outside. A.H. observed the same woman standing outside the SUV while law enforcement gave commands to a male driver inside the SUV. A.H. observed the driver light a cigarette and then get out of the vehicle. A.H. heard officers yell loudly, "Show me your hands." A.H. observed the male back-up towards the front entrance to the hotel. A.H. observed police pointing their guns in the male's direction. A.H. observed the flash of one of the officer's guns while law enforcement gave continuous commands to the male. A.H. observed the time of the shooting was 1:21 a.m. A.H. heard three shots fired. A.H. observed an ambulance take the male away on a stretcher.

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WITNESS R.S.

R.S. was an overnight guest at the hotel and inside guest room #105 during the incident. Room #105 windows faced the hotel parking lot. R.S. woke to the sound of police sirens and saw emergency lights. R.S. observed a police officer behind a car. R.S. heard police officers shouting verbal commands. R.S. remembered hearing, "Out" and "Hands up." R.S. observed a police officer with a gun drawn. R.S. stated police officers were facing the front entrance of the hotel. R.S. observed an ambulance taking someone away.

WITNESS C.N.

C.N. was an overnight guest at the hotel and inside guest room #133 during the incident. Room #133 windows faced the hotel parking lot. C.N. woke to hearing at least two gunshots followed by a woman screaming. C.N. observed police officers with their weapons drawn and pointed toward the hotel lobby. C.N. heard officers calling for the woman to, "Get out of there." C.N. observed the woman walking towards the parking lot and away from his hotel window.

WITNESS R.B.

R.B. was an overnight guest at the hotel and inside guest room #147 during the incident. Room #147 windows faced the hotel parking lot. R.B. woke to the sounds of police sirens followed by the sight of emergency lights. R.B. heard five gunshots and heard law enforcement yelling commands. R.B. observed the incident taking place at the front of the hotel entrance. R.B. remembered hearing, "Get out of the car, get out of the car, it ain't worth it."

WITNESS M.B.

M.B. was an overnight guest at the hotel and inside guest room #147 during the incident. Room #147 windows faced the hotel parking lot. M.B. woke to the sounds of police sirens followed by the sight of emergency lights. M.B. heard law enforcement yelling commands. M.B. observed the incident taking place at the front of the hotel entrance. M.B. remembered hearing, "Get out of the car, get out of the car, it ain't worth it."

Witness R.A.B.

R.A.B. was an overnight guest at the hotel and inside guest room #135 during the incident. Room #135 windows faced the hotel parking lot. R.A.B. woke to the sounds of police sirens followed by the sight of emergency lights. R.A.B. heard loud, distinct, repeated law enforcement commands. R.A.B. heard three to four gun shots and observed a woman with children. R.A.B. stated the incident occurred before 1:30 a.m.

WITNESS L.B.

L.B. was an overnight guest at the hotel and inside guest room #135 during the incident. Room #135 windows faced the hotel parking lot. L.B. woke to the sounds of police sirens followed by the sight of emergency lights. L.B. heard loud, distinct, repeated law enforcement commands. L.B. heard three to four gun shots and observed a woman with children. L.B. stated the incident occurred before 1:30 a.m.

DCI agents made contact with six (6) individuals from businesses in the area. Those individuals had no relevant information regarding the incident and no surveillance video was available that captured the incident. Agents also interviewed three (3) paramedics associated with ASPD who responded with the ambulance to offer emergency care to Kuik, following the shooting.

LAW ENFORCEMENT ACCOUNTS

During the OID investigation, the law enforcement officers involved, Fassbender, Murphy, and Riha were interviewed about their observations and official actions during the incident. PSO Murphy delivered deadly force with his duty pistol. ASPD PSO Sands responded immediately after the incident and assisted with critical witness and evidence management. The following accounts were provided:

ASPD LIEUTENANT (LT.) RIHA INTERVIEW

During an interview with DCI agents on 09/11/15, at the ASPD, Lt. Riha stated on the day of the shooting, 9/09/15, he wore an approved agency uniform. Lt. Riha never knew Kuik's name or identity. Lt. Riha stated he never had any type of professional contact with Kuik prior to the incident.

During his interview Lt. Riha stated that on 9/09/15 Lt. Riha and PSO Murphy were dispatched to the Ashwaubenon Quality Inn to attempt-to-locate a vehicle for MTSO. The vehicle was associated with a recent Manitowoc County (Mishicot) robbery suspect. Lt. Riha stated MTSO requested only surveillance be performed on the vehicle unless it went mobile. Lt. Riha and PSO Murphy were unable to locate the suspect vehicle in the hotel parking lot or in adjacent business parking lots.

While parked in an area business parking lot, Lt. Riha heard PSO Fassbender radio that he was following a vehicle that matched the description. Lt. Riha contacted the MTSO investigator who requested that ASPD conduct a traffic stop on the suspect vehicle. Lt. Riha directed PSO Fassbender to make a traffic stop on the suspect vehicle. The vehicle did not stop for PSO Fassbender and pulled into the hotel parking lot.

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Lt. Riha parked on the street next to the hotel and exited his patrol vehicle with his service pistol drawn. Lt. Riha stayed behind a parked van in the hotel parking lot. The van was behind the parked suspect vehicle and across from the hotel lobby doors.

Lt. Riha heard and gave verbal commands to the individuals inside the suspect vehicle that were not followed. Commands were made to the female passenger. Lt. Riha observed the female exit the vehicle and retrieve two children from the vehicle. Lt. Riha was concerned about a hostage situation with the female and the children.

Lt. Riha directed a dispatcher to call the hotel to lock the lobby doors. Lt. Riha then observed the suspect (driver) exit the driver's door with a gun to his head. Lt. Riha stated the suspect never took the gun away from his head. Lt. Riha observed the suspect move towards the lobby with the female and children behind the suspect. Lt. Riha recalled hearing some type of police radio broadcast about the male threatening suicide. Lt. Riha observed the suspect running towards the hotel, and upon reaching the lobby door, he heard shots being fired and observed the suspect go down. Lt. Riha estimated four (4) gunshots were fired. After the suspect fell to the hotel floor, Lt. Riha radioed, "Shots fired, male down, need ambulance."

Lt. Riha approached the hotel doors. Lt. Riha observed the suspect breathing and gasping for air. Lt. Riha could not see the suspect's gun. Lt. Riha monitored the suspect until additional officers moved up. Lt. Riha observed PSO Murphy check the hotel desk clerk for any injuries and for any other people that may have been present in hotel lobby.

Lt. Riha stated ASPD PSO Sands arrived on-scene. Lt. Riha explained he and PSOs Murphy and Sands cleared the suspect area. Lt. Riha stated they rolled the suspect over and observed the suspect's gun under the suspect's right leg. Lt. Riha directed PSO Sands to secure the suspect weapon as evidence. Lt. Riha searched the suspect's pockets and found a pill bottle and an additional pistol magazine. Lt. Riha observed the suspect was not conscious but was breathing. Lt. Riha observed a small caliber shell casing on the lobby floor which was not from a known law enforcement weapon. Lt. Riha captured cellular telephone images of the shell casing and the suspect lying on the hotel lobby floor.

After the ambulance crew arrived on-scene, Lt. Riha directed the crew to "load-and-go." Lt. Riha observed the suspect had a wound to his head and chest.

Lt. Riha escorted PSO Murphy back to Lt. Riha's patrol vehicle where he collected PSO Murphy's service pistol from him. Lt. Riha secured PSO Murphy's service pistol and the suspect's pistol. Lt. Riha took PSO Murphy back to the ASPD where he obtained photographs of PSO Murphy.

ASPD PSO FASSBENDER INTERVIEW

During an interview with DCI agents on 09/11/15, at the ASPD, PSO Fassbender stated he wore an approved agency uniform on 09/09/15. During his duty shift on 09/09/15, PSO Fassbender operated ASPD patrol vehicle 7. PSO Fassbender never knew Kuik's name or identity. PSO Fassbender stated he never had any type of professional contact with Kuik prior to the incident.

Just prior to the incident on 09/09/15, PSO Fassbender monitored by police radio that Lt. Riha and PSO Murphy were dispatched to a call at the Ashwaubenon Quality Inn for a recent suspect associated with an armed robbery in Mishicot, Wisconsin. PSO Fassbender heard dispatch provide a license plate and type of vehicle (light-colored Hyundai) that they were attempting to locate for the MTSO. PSO Fassbender heard the suspect vehicle was not in the Quality Inn parking lot. PSO Fassbender performed patrol duties and attempted-to-locate the suspect vehicle.

PSO Fassbender observed the suspect vehicle traveling northbound on Oneida Street at Marvell Lane. PSO Fassbender reported the license plate displayed on the suspect vehicle matched the license plate relayed by dispatch. PSO Fassbender followed the suspect vehicle. PSO Fassbender broadcasted by police radio that he was behind the suspect vehicle. When the vehicle was on Oneida Street near Potts Avenue/Mike McCarthy Way, PSO Fassbender learned PSO Murphy was behind him. PSOs received a directive to stop the suspect vehicle from Lt. Riha. As the suspect turned from Lombardi Avenue on to Holmgren Way, PSO Fassbender activated his patrol vehicle's emergency lights and siren in order to initiate a traffic stop with the suspect vehicle. The suspect vehicle did not stop. The suspect vehicle continued westbound onto Armed Forces Drive. The suspect vehicle then turned into the parking lot of the Quality Inn at the Armed Forces Drive entrance. The vehicle parked in a handicap parking stall near the front lobby doors to the hotel. The suspect vehicle was followed into the parking lot by PSO Fassbender; who was followed by PSO Murphy. PSO Fassbender exited his patrol vehicle and armed himself with a rifle. PSOs Fassbender and Murphy attempted to conduct a high-risk traffic stop on the suspect vehicle.

PSOs Fassbender and Murphy started giving commands to the individuals inside the suspect vehicle. PSO Fassbender observed the suspect (driver) light a cigarette. The suspect did not comply with verbal commands while the female removed two children from the back seats of the vehicle. The female walked the children out-of-view of PSO Fassbender. PSO Fassbender ordered the suspect to place his hands on the steering wheel but he did not comply. PSO Fassbender heard the suspect make comments to law enforcement that they were not to come near the vehicle and he referenced suicide. PSO Fassbender observed the female was visibly shaking and she appeared very worried. PSO Fassbender heard the suspect say, "I would not come near the vehicle if I was you." PSO Fassbender observed the suspect exit the vehicle with a black handgun held against his head and "walking toward the entrance of the hotel." PSO Fassbender observed the hotel clerk was at the front desk.

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PSO Fassbender observed PSO Murphy move past PSO Fassbender's left side while moving forward toward the hotel entrance. PSO Fassbender followed behind PSO Murphy. PSO Fassbender heard two shots fired. PSO Fassbender observed the suspect on the floor in the entrance way of the hotel between the two sets of doors and observed the suspect had a chest wound.

PSO Fassbender stated Lt. Riha arrived in the area as PSO Fassbender continued to cover the suspect. PSO Fassbender stated he was directed to secure the female by Lt. Riha. PSO Fassbender patted the female down for any weapons. PSO Fassbender stayed with the female and children while additional responding law enforcement units and the ambulance arrived.

ASPD PSO MURPHY INTERVIEW

During an interview with DCI agents on 09/11/15, at the ASPD, PSO Murphy stated he wore an approved agency uniform on 09/09/15. PSO Murphy never knew Kuik's name or identity. PSO Murphy stated he never had any type of professional contact with Kuik prior to the incident.

PSO Murphy explained he was dispatched to the Ashwaubenon Quality Inn to determine if a Manitowoc County armed robbery suspect and his girlfriend were registered as guests at the hotel. PSO Murphy observed in computer-aided dispatch (CAD) notes that the suspect was possibly armed with a handgun. PSO Murphy learned that law enforcement had been in contact with the suspect but that the suspect refused to turn himself in to law enforcement. PSO Murphy learned the suspect's girlfriend was registered at the hotel as a guest. PSO Murphy was given the license plate number and description (lighter-colored Hyundai) of the suspect vehicle. PSO Murphy was unable to locate the suspect vehicle in the hotel, or other area business', parking lots.

While searching for information about the suspect, PSO Murphy heard PSO Fassbender was following the suspect vehicle. PSO Murphy caught up to PSO Fassbender and the suspect vehicle. PSO Murphy began following behind PSO Fassbender. PSO Murphy radioed he was behind PSO Fassbender. PSO Murphy heard Lt. Riha would contact MTSO investigators. As the officers continued to follow the suspect vehicle, PSO Murphy heard Lt. Riha announce a directive to stop the suspect vehicle and set-up for a "high-risk stop" procedure. While driving eastbound on Lombardi Avenue, PSO Murphy activated his emergency lights and siren on and off several times. PSO Murphy observed the suspect vehicle did not stop and continued on until it entered the hotel parking lot. PSO Murphy was behind PSO Fassbender and exited his patrol vehicle with his pistol drawn. PSO Murphy believed any lesser weapon would have been inappropriate as he had learned from dispatch that the suspect was armed and he may have used a gun in a recent armed robbery. PSO Murphy took a position in front of a parked pick-up truck in the parking lot. PSO Murphy knew PSO Fassbender was to his left and outside his patrol vehicle's driver's door. PSO Murphy stated he could not see well and he could only see silhouettes of the people involved.

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PSOs Murphy and Fassbender gave verbal commands to the occupants of the vehicle after it parked. PSO Murphy stated the occupants were ordered to put their hands up. PSO Murphy stated the suspect never put his hands up and never complied with the PSOs' verbal commands. PSO Murphy stated the female came out of the vehicle without being ordered to do so. PSO Murphy's pistol tactical light was on because he could not see well. PSO Murphy stated from what he could see, the driver (suspect) matched the description of the robbery suspect offered.

PSO Murphy observed the female stand alongside the suspect vehicle. PSO Murphy described the female as preoccupied with the suspect, not the officers. The female stated the suspect would not get out of the vehicle and the female continued to have a dialogue with the suspect. PSO Murphy stated the officers had no control over the situation. PSO Murphy believed the situation changed from a high-risk traffic stop to a barricaded subject inside a vehicle. PSO Murphy attempted dialogue with the suspect, to engage him, but nothing was effective.

PSO Murphy observed the suspect light a cigarette inside the vehicle while he ignored all law enforcement dialogue and commands. PSO Murphy believed by lighting the cigarette the suspect was mentally preparing himself for something.

PSO Murphy heard the female state the suspect had mental health issues. PSO Murphy heard the suspect make references consistent with, "Don't come near the vehicle" and something else about "suicide." PSO Murphy radioed the information to others so they would be aware of the mindset of the suspect.

PSO Murphy advised the suspect not to do anything rash and to allow the female to get the children out of the vehicle. PSO Murphy stated his concern was for the female and children so they did not become hostages. PSO Murphy stated as the female was moving the children away from the vehicle, the suspect suddenly got out of the vehicle against commands to stay in the vehicle. PSO Murphy observed a dark object in the suspect's right hand, held to his head, and he believed it to be a firearm. PSO Murphy stated he knew the female was still out near the vehicle and he feared for the safety of her and the children. PSO Murphy recognized the suspect had a weapon in his hand. PSO Murphy believed the suspect could cause death or great bodily harm to himself, to PSO Murphy, or to others. PSO Murphy believed because of the suspect's actions, the suspect had the intent to cause harm. PSO Murphy explained the suspect continued to look directly at the PSOs with the pistol pointed at his own head while disobeying the PSOs' constant verbal commands.

PSO Murphy observed the suspect walking backwards into the hotel. PSO Murphy explained lesser options would have been inappropriate because the suspect had not submitted to law enforcement's commands. PSO Murphy stated if the suspect went into the hotel, the officers would have had no control over him and the suspect would have had a tactical advantage over the officers. PSO Murphy stated they had no cover and he knew that glass and sheet-metal provided no protection. PSO Murphy stated that the only thing which prevented the suspect from shooting at that point was his own decision whether or not he wanted to shoot. PSO Murphy said he knew

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that actions were faster than reactions and it would be very quick if the suspect had decided to point the weapon at the officers and shoot at them. PSO Murphy knew there were guests inside the hotel from the amount of cars parked in the parking lot. PSO Murphy stated he believed the suspect was an imminent threat to PSO Murphy, the female, the children, the hotel guests, and the hotel clerk. PSO Murphy also considered the suspect an armed felon.

PSO Murphy stated when the suspect went through the doors, the suspect continued to face officers and the suspect's gaze and attention was toward the officers the entire time. PSO Murphy stated the only way to control the situation was to use deadly force. PSO Murphy stated that he discharged his firearm at the suspect as he entered through the hotel lobby doors. PSO Murphy observed the suspect go down. PSO Murphy described the suspect fell "supine" (face up). PSO Murphy stated he stopped shooting at the suspect because he observed the suspect was no longer a threat to anyone. PSO Murphy stated he believed he shot his weapon six (6) times.

PSO Murphy approached the lobby doors with PSO Fassbender. PSO Murphy observed the suspect's upper body was partially in the lobby of the hotel and his right arm was out to the side. PSO Murphy stated he could not see the suspect's gun at that time. PSO Murphy stated the suspect's chest was still rising and he was still breathing. PSO Murphy stated PSOs did not make an immediate entry because they could not see the suspect's gun and they knew he was still alive.

PSO Murphy entered the vestibule behind Lt. Riha. PSO Murphy described the suspect lying with the vestibule door open against the suspect. PSO Murphy observed Lt. Riha performed an assessment and pat-down search of the suspect. PSO Murphy lifted the suspect's right thigh where he observed a black semi-automatic handgun. PSO Murphy moved the gun three to four feet away with his boot because the suspect was still alive. PSO Murphy heard the suspect gurgling. PSO Murphy observed a bullet wound to the suspect's upper left chest and saw blood by the suspect's head.

PSO Murphy stated he instructed PSO Sands to secure the suspect's weapon. PSO Murphy checked on the safety of the hotel clerk and anyone else. When PSO Murphy returned to the suspect, he described the suspect as having a fixed and blank stare, and not moving. PSO Murphy stated "suspect control" changed to "patient care," and law enforcement started to medically assess the suspect. Law enforcement observed the suspect had gunshot wounds to his head and chest. Upon ambulance arrival, PSO Murphy assisted in transferring the suspect to the ambulance.

PSO Murphy observed a shell casing in the lobby of the hotel. PSO Murphy believed the casing was a smaller caliber casing. PSO Murphy did not believe the casing was from his duty pistol because he did not shoot near where the casing was located.

CLARIFICATION OF USE-OF-FORCE BY PSO MURPHY

During the investigation it was determined PSO Murphy fired his duty pistol four times. Bullet fragments from the scene were recovered and continue to be forensically examined. The investigation also showed the suspect fired his firearm once to his own head. Bullets were recovered from the suspect's head, chest, and leg, which all continue to be examined.

ASPD PSO SANDS INTERVIEW

On 09/09/15, DCI special agents interviewed PSO Sands, who had been involved in the OID, regarding his actions during the incident on 09/09/15. The interview was conducted at the ASPD.

While working on 09/09/15, PSO Sands heard that PSO Fassbender was following a suspect vehicle and that PSO Fassbender and PSO Murphy were going to conduct a high-risk traffic stop on the vehicle. While responding toward the area of the Ashwaubenon Quality Inn, PSO Sands heard Lt. Riha announce by police radio that the suspect had a gun to the suspect's own head. PSO Sands then heard a call for assistance after shots were fired. PSO Sands continued to respond to the Quality Inn to assist his fellow PSOs.

PSO Sands arrived on-scene at 1:23 a.m. approximately two minutes after the announcement of shots fired. Upon arrival, PSO Sands approached PSO Fassbender and assisted him with a female and two young children. PSO Sands was directed by Lt. Riha to secure the suspect's handgun. PSO Sands then located and secured a 9mm pistol lying on the hotel vestibule floor between the two sets of glass lobby doors. PSO Sands removed the pistols magazine and ejected the round in the chamber in order to make the gun safe. PSO Sands placed the ejected round, the pistol, and its magazine inside his locked patrol vehicle's trunk. The pistol and magazine were placed inside separate evidence bags by PSO Sands. PSO Sands later transferred the pistol and magazine to Lt. Riha at Lt. Riha's request.

PSO Sands guarded the scene and began documenting all personnel coming and going from the taped-off lobby area. PSO Sands also placed traffic cones over five (5) bullet casings on the ground near the lobby area so they were protected as evidence associated with the incident.

SCENE EXAMINATION

A search warrant by ASPD was obtained for the hotel premise. A visual examination and physical search of the scene was performed by investigators. The scene was documented with digital images and forensically mapped by the Wisconsin State Patrol (WSP), Technical Reconstruction Unit (TRU). The entire incident was captured by the dash camera in patrol vehicle #7 driven by PSO Fassbender. Patrol vehicle #10 driven by PSO Murphy had audio and no video. Patrol vehicle #1 driven by PSO Sands arrived after the incident and had no video or audio recording. Patrol vehicle #4 driven by Lt. Riha was parked on the street and had no

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relevant video or audio recording of the incident. Evidence from the dash cameras were collected, examined, and maintained with the investigation.

The following items of evidentiary value were documented and seized from the scene:

- One cartridge casing from the ground outside the rear driver door of the white 2006 Hyundai Tucson
- One cartridge casing from the ground outside the front driver door of the white 2006 Hyundai Tucson
- One cartridge casing from the ground outside the front driver door of the white 2006 Hyundai Tucson
- One cartridge casing from the ground outside near the southeast corner of the cinder block utility enclosure of the hotel
- One gray/black-colored Motorola brand smart phone from the front passenger seat of the white 2006 Hyundai Tucson
- One labeled Taurus pistol box containing packing materials and a user's manual from under the front passenger seat of the white 2006 Hyundai Tucson
- A four-page written document dated 08/23/2012 concerning a used vehicle service contract for the 2006 Hyundai Tucson, to the registered owner, from the front passenger door pocket of the white 2006 Hyundai Tucson
- One Google Wallet Mastercard from inside the sunglass holder in the roof between the front seats of the white 2006 Hyundai Tucson
- One Wal-Mart receipt dated 09/08/2015 at 23:05:05 hours for the purchase of "NETSPENDVISA" and "DEBIT LOAD" of \$245.00 from inside the front driver's door pocket of the white 2006 Hyundai Tucson
- One firearm sales sheet, one Firearms Dealer Notification (Handgun Transfers), and a cash register receipt which corresponded to the purchase of a Taurus pistol on 09/07/2015 at 2:21 p.m. from inside the front driver's door pocket of the white 2006 Hyundai Tucson
- One orange pill bottle with a faded label showing a prescription which was filled 06/29/2015 which contained 60 orange oblong shaped tablets from inside the rear driver's door pocket of the white 2006 Hyundai Tucson
- One empty orange pill bottle with a label dated 06/02/2015 for 20 tablets from inside the glove compartment of the white 2006 Hyundai Tucson
- One orange pill bottle with a label dated 06/29/2015 for 60 tablets. The bottle contained 16 yellow oblong shaped tablets from inside the glove compartment of the white 2006 Hyundai Tucson
- One orange pill bottle with a label dated 05/03/2015 for 28 tablets. The bottle contained four pink round-shaped tablets from inside the glove compartment of the white 2006 Hyundai Tucson
- One orange pill bottle with a torn-off label containing 46 light orange round-shaped tablets from inside the glove compartment of the white 2006 Hyundai Tucson
- One cartridge casing from floor between interior and exterior vestibule doors
- 12 assorted projectile fragments from floor between interior and exterior vestibule doors

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- One cigarette from floor between interior and exterior vestibule doors
- Two projectile fragments from ceiling tile between interior and exterior vestibule doors
- One plastic sign with bullet fragment from floor behind front desk counter
- One right sandal from floor between interior and exterior vestibule doors
- One left sandal from floor between interior and exterior vestibule doors
- One projectile from the north/south hallway floor in front of room #126
- One swab from red substance on lobby floor, south of interior entrance/vestibule door
- One swab from red substance on glass door window of interior vestibule door
- One swab from red substance on southwest vestibule wall by interior door hinge

In addition to the recovered evidence, agents examined the involved PSOs' firearms and corresponding magazines. PSO Murphy's duty pistol was submitted to the crime laboratory for forensic analysis and ballistic testing. A computer-aided dispatch (CAD) report of the incident was received from ASPD, as well.

EXAMINATION OF PATROL VEHICLE VIDEO

Patrol vehicle dash camera videos which captured audio and video segments of the incident were examined during the investigation. The recording which captured the entire incident was the dash camera in ASPD patrol vehicle 7. PSO Fassbender operated patrol vehicle 7 on 09/09/15, at the time of the incident. PSO Fassbender was the law enforcement officer directly behind the suspect vehicle as it entered into the hotel parking lot and parked. Following is a synopsis of the visual and audible recording from patrol vehicle 7:

The video depicted a patrol vehicle following behind the suspect vehicle. At a stop sign, the suspect vehicle turned right. The patrol vehicle's emergency lights were activated followed by its audible siren. The suspect vehicle did not stop. The suspect vehicle entered a parking lot and parked in a parking stall closest to an entryway which was adjacent to "LOBBY" doors.

A female was observed exiting the passenger's side of the vehicle at which time verbal commands by law enforcement officers were made to the female. Additional verbal commands were made to the suspect. The female was depicted having dialogue with the suspect. Law enforcement began to call the suspect, "Dustin."

The female removed two children from each side of the backseat areas of the vehicle and walked toward the lobby and out-of-view. As the female walked away, the suspect was looking around. The suspect was directed by law enforcement to "stay in the vehicle" and to "show his hands." The suspect suddenly exited the vehicle with a firearm held to the right side of his head. The suspect began walking backwards toward the lobby doors.

PSO Murphy came into camera view and approached the area where the suspect was last seen. Verbal commands for the suspect to, "drop it," were heard. PSO Murphy discharged his duty pistol toward the lobby doors. Female screams/cries were heard immediately after gunfire.

PSO Fassbender came into view, armed with a rifle, and moved to the lobby doors. PSO Murphy and PSO Fassbender stood adjacent to each other looking through the glass lobby doors. The female moved two children behind the suspect vehicle and sat down.

Lt. Riha came into camera view. Lt. Riha and PSO Murphy entered the lobby. PSO Fassbender patted the female down and stayed with her and the children.

PSO Sands came into camera view and was near PSO Fassbender and then moved to the lobby where he entered. Law enforcement officers continued to arrive. PSO Sands exited with an object in his hand and walked out of camera view.

Green Bay Police Department (GBPD) uniformed officers were observed guarding the scene. Paramedics arrived on-scene and rolled a stretcher toward the lobby. Officers were observed putting crime scene tape up around the lobby area. A subject was wheeled out of the lobby area upon the stretcher. The video ended with the patrol vehicle beginning to move and the video footage stopped.

EXAMINATION OF COMPUTER-AIDED DISPATCH (CAD) LOGS

The ASPD CAD log was examined during the investigation. According to the log, ASPD began with the incident at 12:59 a.m. on 09/09/15 when ASPD was contacted by the MTSO regarding an armed robbery suspect. The log documented the robbery suspect's girlfriend was registered at the Ashwaubenon Quality Inn. Following is a synopsis of the CAD log times:

- At 1:16 a.m. ASPD PSO Fassbender identified the suspect vehicle and a traffic stop was to be initiated
- At 1:18 a.m. the vehicle stopped in the hotel parking lot
- At 1:19 a.m. the suspect refused to exit the vehicle and referenced suicide
- At 1:22 a.m. the suspect had a gun to his head, followed by a "shots fired – 1 down" entry. At the same time, ASPD requested assistance from Green Bay and the county.
- At 1:24 a.m., a request for the ambulance to approach was made and the suspect's gun was secured

INFORMATION OBTAINED REGARDING MENTAL HEALTH HISTORY OF DUSTIN KUIK

During the investigation, various law enforcement records and reports were obtained pertaining to Kuik. The reports were law enforcement incident reports and Manitowoc County jail records. Records indicated Kuik had mental health issues including bipolar, depression, anxiety, sleep disorder (insomnia), anger-issues, hearing voices, Attention Deficit Hyperactivity Disorder (ADHD); as well as having possible polysubstance abuse issues.

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Kuik had previously attempted suicide, thought about suicide, reported having had suicidal feelings to a medical professional, and wrote letters to a family member referencing suicide. Kuik reported being suicidal to law enforcement officers. Kuik made suicidal statements to a judge in court. Kuik stated to R.N. that he was suicidal on the night of the incident. On 09/08/15, Kuik texted a relative, "bad things might happen tonight love you cuz."

AUTOPSY EXAMINATION

An autopsy examination was conducted on Kuik at the Fond du Lac County Medical Examiner's Office, Fond du Lac, Wisconsin on 09/09/15. Chief Medical Examiner, Dr. P. Douglas Kelley, a forensic pathologist, performed the autopsy. Special agents documented the autopsy and collected evidence along with personal items from Kuik. Dr. Kelley's autopsy findings were that Kuik died as a result of gunshot wounds to his head and chest. Kuik had a total of three gunshot wounds to his body. The wounds were to Kuik's head, chest and right lower leg.

WISCONSIN STATE CRIME LABORATORY TESTING

Items of evidence were submitted to the Wisconsin State Crime Laboratory and test results are pending.

FAMILY CONTACTS

On 9/09/15 special agents met with Kuik's mother, father, grandmother, and other relatives. Special agents explained the family's rights under the law regarding OID investigations. Kuik's family was provided a DOJ 2013 Wisconsin Act 348 summary and DCI victim rights notification forms. The Kuiks signed acknowledgment receipts for the referenced documents.

On 09/25/15, the DCI lead case investigator along with Brown County District Attorney (DA) Lasee, and the Brown County victim/witness coordinator met with Kuik's family members. DCI's independent investigative role was explained to Kuik's family members. Additional meetings and communications with family members took place by investigators.

DISTRICT ATTORNEY REVIEW

On 01/08/16, a copy of DCI's complete investigative file, as of that date, was turned over to Brown County District Attorney Lasee for review. 1978DCI will continue to document any additional investigative activities that may occur. Reports of those investigative activities will be provided to the district attorney as soon as they are completed.