

# **JONES COUNTY ATTORNEY'S OFFICE**

*Jones County Courthouse*

*500 West Main, Room 201, Anamosa, IA 52205*

**PBX: (319) 462-3961**

**FAX: (319) 462-5806**

**JONES COUNTY ATTORNEY**

*Kristofer J. Lyons*

**ASSISTANT COUNTY ATTORNEY**

*Amy Dollash*

## **OFFICER INVOLVED SHOOTING SEPTEMBER 21, 2020**

The Division of Criminal Investigation conducted an investigation of a shooting by a member of the Iowa State Patrol, a Delaware County Deputy Sheriff, and a Jones County Deputy Sheriff, which occurred on September 21, 2022. Following the DCI investigation, I was asked to determine whether the Officer's actions were justified. The following are my findings:

### **SUMMARY:**

On September 21, 2020 at approximately 7:47 p.m. Jones County Dispatch received reports of shots fired at 9073 Co. Rd. E-45, which is just outside of the village of Hale, in Jones County, Iowa. Initial reports were that shots were fired into the residence that was occupied.

Multiple agencies responded, included Jones County Deputies, a Delaware County Deputy, and a member of the Iowa State patrol. The Jones County Emergency Response Team was placed on stand-by.

Upon arrival James Bartram was discovered, with a firearm, that he intermittently pointed at himself, and uniformed members of law enforcement.

Uniformed members of law enforcement, most notably Jones County Chief Deputy Brian Eckhardt attempted to negotiate with Mr. Bartram to get him to put his firearm down. At one point, Chief Deputy Eckhardt visually saw Mr. Bartram point the gun under his own chin, and hear the hammer of the pistol fall, but the weapon did not discharge. He then heard several

shots fired, Bartram fell to the ground, and first aid was rendered. Two firearms were recovered from Mr. Bartram. The handgun Mr. Bartram had prior to shots being fired, and a .20 gauge shot gun, that was located in the driveway, near where Mr. Bartram had been standing.

D.C.I Agent Trent Vileta was on scene that evening, and began his investigation. At the conclusion of his investigation, he submitted his report and accompanying evidence to the Jones County Attorney's Office for review.

**SCOPE OF REVIEW:**

The question of this inquiry is whether the actions of two deputies and a member of the state patrol were justified as reasonable force.

**ITEMS REVIEWED:**

To determine if the actions of the Officer's were justified, I reviewed Deputy McNally's body worn camera, Deputy Snyder's body worn camera, Deputy Denniston's patrol vehicle video, Chief Deputy Eckhardt's body worn camera, written statements of Chief Deputy Eckhardt, Deputy Denniston, Deputy McNally, Deputy Gehl and Deputy Snyder; the crime scene team's report including photographs; reports and/or recordings from DCI Special Agent Trent Vileta, the reports of interviews with Deputy Miller and Trooper Remley, reports from lay witnesses; surveillance video from the scene; and DCI Special Agent Trent Vileta's report.

**FACTUAL FINDINGS:**

On September 21, 2020, James Bartram fired at least two shots into the home located at 9073 Co. Rd. E-45, as reported by Annette Bartram when she called 911, and spoke with Jones County Dispatch. She reported that he shot two times through the window and had been drinking. Law enforcement was dispatched to that address immediately, and the first uniformed member of law enforcement to arrive on scene was Deputy McNally, who arrived with Trooper Remley. Other members of local law enforcement arrived, along with Deputy Miller, who had been assisting on a traffic call in Delaware County.

During the call Annette Bartram made it clear that James Bartram had a gun, and that it was loaded. She, and her son Matthew described it as a little revolver pistol, and that he had taken a whole handful of ammunition with him. She conveyed to dispatch that she believed it was a .22. She conveyed to dispatch that James Bartram told her that if the cops come, he was either going to shoot them or shoot himself. She expressed concern he may be "doing something else" as he had "never acted liked this" before. She made it clear that both her and her son were in the home when shots were fired, and additionally added that James Bartram also had possession of a shotgun, and attempted to break through the door but she believed all of her shot guns were accounted for. She stated he was evidently searching for his phone which she told dispatch she did not have.

She conveyed to dispatch that James Bartram told her to call the police as there was going to be a shootout, which again concerned her that something more than alcohol could be involved. She could observe him on her security cameras, and reported repeatedly that he was aiming at the door. Her son, Matthew, reported he had fired a third time, but was unsure what he was aiming at, and both Annette and Matthew could see he had picked up a shotgun, as James Bartram hit the door and was screaming about something they could not make out.

It was around this time that uniformed members law enforcement arrived.

Deputy McNally was the first to arrive. While en route he spoke with Delaware County Deputy Miller who heard the call, and advised he was coming to assist. Deputy McNally awaited the arrival of Deputy Michelle Gehl and Iowa State Trooper Remley. Deputy McNally prepared his patrol rifle and his less lethal shotgun with 4 CTS Yellow Supersock less than lethal bean bag rounds.

Deputy McNally pulled his patrol vehicle to within 50 yard of the residence . He had Trooper Remley with him, and they walked toward the residence with Deputy Gehl, who had followed in her own patrol vehicle. Deputy McNally notified dispatch he could hear James Bartram yelling and visually observed him begin to walk north towards a truck in the driveway.

Deputy Miller stated he made his way into a ditch by the residence, and observed with his service shotgun while the other uniformed officers attempted to negotiate.

Trooper Remley immediately gave the first command for Mr. Bartram to show his hands, as did Deputy McNally. Deputy McNally and Deputy Gehl independently notice a gun in his left hand. He was standing under a yard light and was facing the officers. By all accounts his arm was extended out from his body, in the direction of uniformed law enforcement.

For a period of approximately four minutes Trooper Remley and Deputy McNally spoke with Mr. Bartram, and repeatedly asked him to put his gun down. Trooper Remley can clearly be heard saying "You are not going to die" and "put the gun down please." Over the radio Deputy McNally requests his less lethal weapon, and that he rounds in the trunk, but he was concerned of its effectiveness at this range. At this point, according to his statement, he was approximately 30 yards from James Bartram.

Trooper Remley further pleaded with James Bartram to put the gun down saying "Our hands our tied when the weapon is in your hands." This statement was made approximately 9 minutes after Deputy McNally and Trooper Remley began to have their verbal interaction with James Bartram, and at this point Chief Deputy Eckhardt arrived on scene and took the lead in talking to James Bartram.

Chief Deputy Eckhardt attempted to negotiate with Mr. Bartram. He can clearly be heard stating at least 8 times he wanted Mr. Bartram to set down the gun he was holding. He had a long and detailed negotiation with Mr. Bartram attempting to defuse the situation through offering him cigarettes. During this time, Mr. Bartram said "Shoot me mother fucker" and additionally "shoot me". Chief Deputy Eckhardt continued to attempt a peaceful resolution, and even made sure to have a car move down to put a spotlight on Mr. Bartram.

At that point Mr. Bartram started approaching law enforcement with a firearm in his hand and was repeatedly told by Trooper Remley, Deputy McNally and Chief Deputy Eckhardt to stop moving forward and to drop the gun or set the gun down. Approximately 12 minutes after Chief Deputy Eckhardt arrived and started negotiation, Deputy McNally heard James Bartram state "I'm coming to see you." James Bartram had a gun in his left hand with the barrel of the gun under his chin. Deputy McNally heard James Bartram counting and walking towards uniformed

law enforcement, he saw him pull the trigger and hear the click of the hammer. Deputy McNally heard the hammer of the revolver click a second time, heard James Bartram say "What the fuck" all the while he continued forward, and had a downward motion of his gun towards Deputy McNally and other law enforcement officers. Deputy McNally became concerned for his safety, and he discharged two less than lethal supersock rounds towards the upper torso of James Bartram, and he heard what he believed to be one loud bang come from his west. Trooper Remley, who also feared for his life, as it looked like Mr. Bartram was attempting to fire his weapon at police, discharged one round of his service rifle, and then lost the sight picture of Mr. Bartram, and observed other law enforcement rush towards Mr. Bartram.

Deputy Miller heard Mr. Bartram count to say he was going to count to 3, and observed him putting the gun under his chin. He heard Bartram continue to argue with the police, while he started the count from 3. He also saw Mr. Bartram still holding onto a handgun, and pointing it at the police. He thought he was going to shoot at one of the officers, and estimated that Mr. Bartram was only the width of the roadway away from the officers at that time. He then discharged his firearm one time.

Deputy Gehl confirms hearing two clicks of James Bartram attempting to discharge his gun. Chief Deputy Eckhardt additionally confirmed the hammer on the revolver falling, and no discharge occurring. Deputy Snyder saw James Bartram with a gun in his hand, and aimed at his chin, as did Deputy Denniston.

While it was taken from a distance, surveillance video does make clear something is in Mr. Bartram's hand, and it does move down immediately prior to him dropping to the ground.

Deputy McNally announced he had shot less lethal rounds and began first aid on James Bartram.

After first aid was rendered, and with Special Agent Vileta present, Deputy Denniston and Chief Deputy Eckhardt were able to examine the gun of Mr. Bartram and both discovered pocket lint or cotton wedged in behind the casing and cylinder of that .22 revolver. They believe this was the reason the gun did not fire when James Bartram pulled the trigger. They turned over all

items to Agent Vileta of the Iowa Division of Criminal Investigation. Agent Vileta determined there were 6 rounds in the revolver.

**LAW:**

In order to be justified, the force used by the officer who fired the shots must have been reasonable. Reasonable force is that force which a reasonable person, in like circumstances, would judge 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 and it is reasonable to believe that such force is necessary to resist a like force or threat. Iowa Code 704.1, 704.2 and 704.3.

In Graham v. Connor, 490 U.S. 386 (1989) the United States Supreme Court held that the use of deadly force by a police officer must be evaluated from the perspective of a reasonable police officer on the scene and in the same circumstances. Under Graham reasonableness of police use of force cannot be evaluated from the perspective of a civilian nor can it be evaluated with a clearer vision afforded by 20/20 hindsight. The Court further stated that the fact law enforcement officers often are required to react quickly in tense, uncertain, and rapidly evolving situations are factors that must be considered in determining reasonableness. Since Graham, the Supreme Court has narrowed the analysis to focus on the exact moment that the force was applied.

Any further case law reference is via summary and included without citation.

**ANALYSIS:**

The three peace officers were justified in shooting at Mr. Bartram if they were confronting unlawful force and their actions were reasonable under all the circumstances existing at the time. An officer is not required to act with perfect judgment. However, they are required to act with the care and caution a reasonable person would have used under the circumstances which existed at that time. If in the officer's mind the danger is actual, real, imminent or unavoidable, even though it did not exist, that is sufficient if a reasonable person would have seen it in the same light.

The situation the three law enforcement officers confronted must be analyzed to determine if they used reasonable force and were justified in their actions.

**The first question is were the officers confronted with unlawful force at the time they discharged their firearms?**

All officers on site that day were responding to a call with reference to shots being fired into a house. They arrived, and confirmed the suspect was in possession of at least one gun. For a period of over 20 minutes, they negotiated with Mr. Bartram, in an attempt to simply get him to put down his weapon. They were not the aggressors, they were not trying to initiate any action, rather, they were trying to get Mr. Bartram to stop what he had started. Despite the long period of negotiation, he lowered what they believed to be a loaded weapon and pointed it in their direction, and no firearms were discharged until that time.

They were all confronted with an unlawful use of force by Mr. Bartram at the time the weapons were discharged.

**The second question we face is whether or not the officer's believed they were in danger.**

The law requires that a person must actually and honestly believe they are in imminent danger to use force against another, especially deadly force. Danger need not be real but may be thought real in the person's mind, acting as a reasonably prudent person under the circumstances. An actual physical assault is not required. A person may act on "apparent" as well as actual danger.

Deputy McNally stated he feared for his safety after he heard the revolver click twice, heard Mr. Bartram say "what the fuck" and Mr. Bartram lowered the weapon from his chin, toward the officers. Trooper Remley stated he feared for his life, as it appeared that Mr. Bartram was aiming his gun at police. Deputy Miller saw this same lowering of the gun, and thought Mr. Bartram was going to shoot other officers.

All three officer's believed they were in danger.

**The third question is whether or not the belief the officer's had that they were in danger was reasonable.**

The standard for the officer's belief that they were in danger is considered from the viewpoint of a reasonable person, under the circumstances which existed at that time. A reasonable person would conclude that having a gun pointed at them, after clicks were heard, and after someone who had been previously shooting said gun, means they are in actual and imminent danger. Viewing all of these factors together, the circumstances would clearly cause a "reasonable person" to agree with the Officer's that they were in actual and imminent danger.

**The fourth question was whether the amount of force the officer's used was reasonable.**

Reasonable force is that force which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if (1) 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; (2) it is reasonable to believe that such force is necessary to resist a like force or threat. Iowa Code sec. 704.1. A person may be wrong in their estimation of the danger or force necessary to repeal the danger as long as there is a reasonable basis for the belief and the person acts reasonably in the response to that belief. Iowa Code Section 704.1(2).

The force Deputy McNally chose to use was two less lethal rounds from his supersock gun. When faced with deadly force, he chose to respond with less than lethal force. His use of force was clearly reasonable.

Trooper Remley and Deputy Miller chose to respond to deadly force, with deadly force. In Trooper Remley's case, it was to avoid injury or serious risk to his own life, and in Deputy Miller's case it was to protect the life or safety of another. Both Deputy Miller and Trooper Remley discharged only one round each, and this was after 20 minutes of negotiation, and after they observed Mr. Bartram point the weapon towards officers.

Given all the facts as laid out above, this use of force that was threatened against them was reasonable, especially given that they limited it to the discharge of one round each.



**The final question is whether the Officer's needed to take an alternative course of action and, if so, did they have an alternative course of action.**

Iowa Code section 704.1 states that "a person who is not engaged in illegal activity has no duty to retreat from any place where the person is lawfully present before using force as describe in [chapter 704]. None of the three officers had a duty to retreat from their location if they were: 1) lawfully present, and 2) not engaged is illegal activity before using force allowed under Iowa Code Chapter Section 704.1(3).

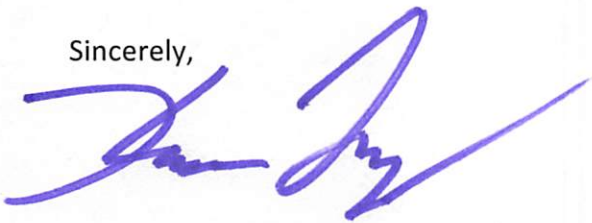
The Officers were all present in response to a shots fired call on a house. They were presented with that reality when the arrived, and Mr. Bartram was still in possession of his gun. They were not engaged in illegal activity, and they were lawfully present. As such, they did not need to take an alternative course of action.

**CONCLUSION:**

Deputy McNally, Trooper Remley, and Deputy Miller were justified in their use of force against Mr. Bartram and it was reasonable under the circumstances presented on September 21, 2020.

Absent further evidence, I consider this matter closed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kristofer J. Lyons", with a long horizontal flourish extending to the right.

Kristofer J. Lyons

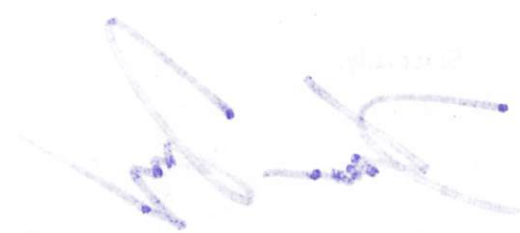
Jones County Attorney

That it should be...  
It is the duty of...

...of the...  
...of the...  
...of the...

...of the...  
...of the...  
...of the...

...of the...  
...of the...  
...of the...



...of the...