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Special Assistant Attorney General

IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
AREA PROSECUTIONS DIVISION

September 23, 2021

Kelsey Beenken
Winnebago County Attorney
Winnebago County Courthouse
126 S Clark St.
Forest City, IA 50436

RE: OIS – James Michael Anderson

Dear Kelsey:

Your office requested the Iowa Attorney General's Office review the circumstances of a shooting incident that occurred in the city of Thompson in which Winnebago County Deputy Joshua Douglas was responding to an assault call by James Anderson on Saturday, September 11, 2021. At your direction, the sole purpose of our review is to determine if the actions of Deputy Douglas were legally justified in his use of deadly force against Anderson.

This officer involved shooting incident was investigated by the Iowa Division of Criminal Investigation. I have had a full opportunity to review the findings with the case agent. Relevant body worn camera video is available and has been reviewed. The DCI assigned case agent also interviewed Deputy Douglas along with several eyewitnesses to the incident. The summary below is based on conversations and review of the investigation with the case agent.

On September 11, 2021, at approximately 7:01 p.m., Winnebago County dispatch received a call from 48-year-old James Michael Anderson. Anderson reported that an unidentified person had committed an assault on him and requested law enforcement respond to his location. Anderson was not previously known to law enforcement. Deputy Douglas responded to the call arriving in Thompson at approximately 7:15 p.m. Deputy Douglas contacted Anderson who was alone at the Leisure Manor Apartments located at 164 Van Buren Street North in Thompson. When Douglas arrived, he encountered Anderson near the doorway of his residence. Anderson was dressed in dark pants, a short-sleeved shirt, and cap. The right side of Anderson's body was not immediately visible as Douglas approached him. As Douglas began to speak with Anderson, Anderson pointed a gun in Douglas's face. Douglas immediately deflected the gun and obtained a short distance between himself and Anderson. Anderson fell to the ground and Douglas observed a pistol taped to Anderson's right hand. Douglas drew his firearm and took action to put distance

between himself and Anderson. Shortly after this encounter, Douglas turned on his body worn camera and the remainder of the interaction is captured on video. In reviewing the video, Douglas maintained a distance from Anderson of about 25-30 feet. For the initial part of the interaction Douglas was also able to keep his squad car between him and Anderson. On more than one occasion, Anderson raised the gun towards the direction of Douglas; however, lowered it at Douglas's command. There are audible statements between them relating to a medical issue affecting Anderson and that he wanted Douglas to shoot him. Anderson can also be heard informing Douglas that the initial call of an assault was false. Douglas repeatedly attempted to convince Anderson to deescalate the situation by stating that he does not want to shoot him, and Anderson can get assistance for his condition. Throughout the encounter, Douglas requests that Anderson drop the gun and surrender. At one point Douglas called for the assistance of other officers. A deputy from Hancock County and an officer from the Lake Mills Police Department responded and arrived approximately 10 minutes after Douglas turned on his body worn camera. A short time after other law enforcement arrived, Anderson walks towards Douglas who is behind a tree. Anderson appears more aggressive as he advances toward Douglas. Douglas repeatedly tells Anderson to stop. As Anderson walked toward the deputy, he raised his right hand with the gun in the direction of Douglas. At this time, Douglas fired one shot that struck Anderson in the left chest area. Anderson can be observed to immediately falling to the ground. While on the ground, the gun can be observed in Anderson's right hand. After obtaining a tactical shield, Douglas approached Anderson, disarmed him, and began rendering aid. It was determined that Anderson was armed with a loaded 9mm Taurus handgun. The entire encounter with Anderson lasted approximately 15 minutes.

Anderson was pronounced dead at the scene by medical personnel. A later autopsy determined that Anderson died of a single gunshot wound to the heart.

Four eyewitnesses were interviewed and each saw portions of what occurred between Anderson and Douglas. None of their statements contradicts those of the officer or his body worn camera video and each supports his statement later provided to law enforcement.

Douglas was interviewed by Special Agent Scot Ely on Friday, September 17, 2021. The interview lasted approximately two hours. During the interview Douglas appears to have excellent recall of the events. All of his statements appear consistent and do not contradict his body worn camera video, the physical scene, or any of the witnesses to the incident.

A cellular phone was obtained from Anderson's personal effects. The cell phone was examined by law enforcement. On the phone were messages from Anderson that indicated he was suicidal. Family and friends confirmed that Anderson had been recently diagnosed with a terminal illness that would cause him to lose his eyesight and that he was devastated by his situation.

In order to be justified, the force used by Deputy Douglas 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.

Deputy Douglas was confronted with a person who made a false report in order to confront police. It appears he wanted the confrontation with police in order to put officers in the position to take his life. At all times during law enforcement's contact with Anderson he was armed with a loaded pistol taped to his right hand. Deputy Douglas made repeated efforts to end the confrontation at one point pleading with him to drop the gun and that if he had to shoot him the deputy would have to live with that for the rest of his life. If Anderson would have ceased his behavior and allowed Douglas to take him into custody, there would have been no need for the use of further force. Because of Anderson's actions of walking toward Douglas and raising his right hand with the gun, Douglas was left with no other reasonable choice than to shoot Anderson. Otherwise, Douglas, other responding officers, or innocent bystanders would have been put in harm's way.

The actions of Deputy Joshua Douglas on September 11, 2021, were entirely legally justified. Anderson provided no other option to Douglas other than to utilize deadly force against him. Anderson was provided every opportunity to end the confrontation peacefully and chose not to do so. The decision to shoot Anderson was reasonable and legally justified under the circumstances.

The Iowa Attorney General's Office considers this investigation closed. If you have any questions, please do not hesitate to call me at (515) 281-3648.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott D. Brown". The signature is fluid and cursive, with a prominent initial "S".

SCOTT D. BROWN
Special Assistant Attorney General
Division Director – Area Prosecutions Division
IA Attorney General's Office

Copy to:

Iowa Division of Criminal Investigation
S/A Scot Ely

Winnebago County Sheriff