

# **TRAVERSE COUNTY ATTORNEY'S OFFICE**

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February 14, 2017

Trevor Wright  
Traverse County Sheriff  
P.O. Box 826  
Wheaton, MN 56296

RE: OFFICER-INVOLVED SHOOTING/DEATH OF JAY HOLMGREN  
Court File No. JV-10-47

Dear Sheriff Wright:

As you know, the Minnesota Bureau of Criminal Apprehension independently investigated the above-matter. I have now received and reviewed the case file concerning the matter. Based upon that information, I have made the following conclusions:

On October 28, 2016, at approximately 7:19 a.m., Stevens County Deputy Sheriff Tom Loew had conducted a traffic stop of Jay Johannes Holmgren, born July 28, 1979, on State Highway 9 in the City of Donnelly. Holmgren was driving a 1995 Dodge Dakota pickup bearing Minnesota license plate 614UCZ. During the stop, Holmgren drove away driving southbound on State Highway 9, prompting Deputy Loew to pursue him. He was soon joined by Morris Police Officer Reggie Welle. They were soon joined by Morris Police Corporal Anita Liebel. During their pursuit, Holmgren collided his vehicle with Officer Welle's squad car, causing him to drop out of the pursuit.

During the pursuit, Deputy Lowe reported that Holmgren had brandished a handgun, at times pointing it at him, and fired at least one round at his vehicle.

The officers continued to pursue Holmgren throughout Stevens County and into Traverse County, with officers from Grant County Sheriff's office, Minnesota State Patrol, and Big Stone County Sheriff's Office joining them. Stop sticks were deployed by at one in an attempt to disable Holmgren's vehicle, but he drove around them on the shoulder of the road. After speeding through the City of Wheaton, Holmgren drove onto Minnesota State Highway 27 and headed west toward the City of Browns Valley. Morris Police Chief Ross Tiegs informed the pursuing officers that he was ahead of them and was going to deploy stop sticks.

Before the officers could get to the stop sticks, Wheaton Police Chief Jim Minion, who was one of the pursuing officers, informed everyone that he was certified to perform the PIT (precision immobilization technique) maneuver, a pursuit tactic by which a pursuing car can force a fleeing car to abruptly turn sideways, causing the driver to lose control and stop, and that he would attempt to employ it against Holmgren to get him stop. When Holmgren saw the stop sticks, he attempted to slow down so he could drive around them. However, at this point Chief Minion was able to successfully perform the maneuver and get Holmgren's vehicle to stop.

Holmgren went into the southbound ditch, slowing greatly before driving over an approach. His vehicle continued to try to drive southbound in the ditch area, but eventually came bogged down at approximately 100 yards south of the intersection of Minnesota State Highway 27 and County Road 6. During the pursuit, Chief Minion also observed Holmgren waving his handgun in the vehicle.

After his vehicle stopped, Holmgren initially sat in his vehicle, waving his handgun around. Eventually he exited the vehicle with the handgun in his hand. He refused to obey all commands to drop his weapon and surrender. He then began to walk across the untilled field toward a wooded/high grass area. Law enforcement did not want Holmgren to get to that area with his firearm. Therefore, law enforcement got into a pickup truck in order to cut off Holmgren before he gained access to the wooded area. Traverse County Sheriff Wright drove the truck, with Stevens County Deputy Ron Hensinger, Grant County Deputies Dale Haberer and Darren Athey, and Minnesota State Patrol Trooper Dillion Rieland in the back.

The officers caught up with Holmgren and again gave him multiple commands to drop his weapon. During this confrontation, Holmgren raised his arm and pointed his weapon toward the officers. At this point Deputy Hensinger fired one shot from his rifle at Holmgren, striking him and killing him.

Based upon these things, there is no question that this was a homicide as a result of an officer shooting.

Pursuant to Minn. Stat. § 609.066, Subd. 2:

*... the use of deadly force by a peace officer in the line of duty is justified only when necessary:*

*1) to protect the peace officer or another from apparent death or great bodily harm*

*2) to effectuate the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force, or;*

*3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed*

In Graham v. Conner, the United States Supreme Court held that the use of deadly force by a law enforcement officer must be evaluated from the perspective of a reasonable police officer on the scene and in the same circumstances. Reasonableness of police force cannot be evaluated from the perspective of a civilian, nor can it be evaluated with the more clear vision afforded by 20/20 hindsight.

In this case, the evidence is clear that Holmgren intended to cause his own death by threatening the lives of the law enforcement officers who were tasked with pursuing him and trying to take him into custody. All law enforcement officers involved in the pursuit of Holmgren gave multiple commands to him to drop his weapon and surrender. They also observed Holmgren either pointing his weapon at

Ltr to Sheriff Wright

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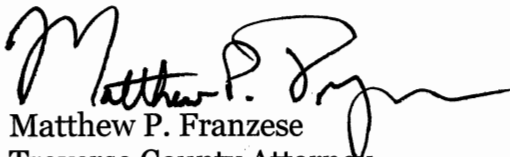
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them on multiple occasions, or otherwise waiving it around. Holmgren was on foot with no hope of escape, and with five armed law enforcement officers right in his immediate vicinity. By pointing his weapon at these officers, Holmgren had to know that he would be fired upon. And it was not until Holmgren did point his weapon directly at these officers, obviously threatening the officers with the imminent prospect of death or great bodily harm, that one of them fired his weapon at him.

I have chosen not to present this case to a Grand Jury because the facts do not warrant it. Deputy Hensinger, as one of the officers that Holmgren was pointing his weapon at, was the victim of a crime that day, and reasonably acted in self-defense. In my opinion, all of the law enforcement officers involved in this matter should be commended for showing tremendous restraint in trying to safely place Holmgren under arrest, and lethal force was only used when Holmgren forced one of them to use it.

If you have any questions, or require anything further, please let me know.

Sincerely,



Matthew P. Franzese  
Traverse County Attorney