

**OPINION OF THE ROCK ISLAND COUNTY
STATE'S ATTORNEY REGARDING EAST MOLINE
POLICE DEPARTMENT OFFICER INVOLVED
SHOOTING ON MAY 17, 2024**



STATEMENT OF RELEVANT FACTS

On Thursday, May 16, 2024, East Moline officers were dispatched to 1011 49th Avenue, East Moline in reference to a battery. Victim Dale King, an employee of Hometown Harbor, stated that a resident, Eugene Mewes, 80, had assaulted him after an altercation regarding maintenance work that was done at Mr. Mewes' residence. Mewes became angry at King and began to choke him, which ultimately caused Mewes to fall from his motorized scooter. Both King and Mewes were transported for medical treatment and discharged the same day. (East Moline Report #24-03175).

On Friday May 17, 2024 at approximately 2:17p.m. East Moline officers were dispatched to 1011 49th Avenue for a man with a gun. 911 advised that the caller, Dale King, said a male pointed a gun and shot it, but did not hit him. Officers were made aware that the male with a gun was the same person from the previous day, Eugene Mewes. Officer Kistner arrived at the 48th Avenue entrance at approximately 2:24p.m. and was met by the caller, Dale King, who said that Mewes pointed a gun at him and shot towards him but King had jumped on a golf cart and was able to avoid being shot. Kistner is then seen driving forward and coming up behind a sidewalk where a man was sitting on a motorized scooter. Kistner parks northwest of the scooter and proceeds to walk up slowly towards the man.

At 2:25 p.m. Lt. Edkin arrives at the 1100 block of 48th Avenue and walks up slowly facing a man on the scooter. The man is identified as Eugene Mewes and he was holding a semi-automatic pistol under his chin. Mewes was sitting across from the Hometown Harbor Community Room Building and nearby the East Moline Christian School, where students were playing outside.

Lt. Edkin has his duty weapon out and is heard repeatedly yelling for Mewes to drop the gun. Mewes responds several times saying he was not going to drop the gun, and asks for officers to "shoot him." At this time Kistner is also telling Mewes to drop the gun and is now positioned directly to the left of Mewes, in an L position. Mewes continues to yell that he is not dropping the gun and that he wants the officers to shoot him, he also says that he has his finger on the trigger of the gun.

Both Lt. Edkin and Kistner continue to command Mewes to drop the weapon, and Edkin fires one shot towards Mewes that appears to hit the middle of the handlebars on the scooter, a portion of metal can be seen flying into the air. Mewes appears to flinch, but then leans up with the gun in his right hand and begins to point the gun towards his left, where Kistner is standing.

At this time, both Edkin and Kistner fire shots and Mewes drops the gun on the ground to his right. Kistner quickly runs back to his squad to retrieve a medical kit and begins to render aid to Mewes. Other officers arrive at the scene and assist with medical aid until EMS arrives to transport Mewes to a nearby hospital.

The scene was secured by officers from the East Moline Police Department and the Integrity Task Force. Lt. Edkin and Officer Kistner's body worn cameras and squad cameras were also collected as evidence. Members of the Integrity Task Force (ITF) completed a neighborhood canvas and interviewed potential witnesses, including the Property Manager and a teacher from East Moline Christian. No other security or surveillance video was located that captured the incident.

Mewes was treated for gunshot wound injuries and later transported to OSF Peoria for surgery. On May 20, 2024, Mewes passed away from his injuries. Hospital and autopsy reports show that Mewes received 4 gunshot wounds.

Lt. Edkin and Ofc. Garrett Kistner both reported to Trinity Hospital in Rock Island, Illinois shortly after this incident on Friday, May 17th. Per Illinois state law 50 ILCS 727/1-25 and East Moline Police Department Policy, they both consented to drug and alcohol testing. On May 22nd, 2024, it was confirmed that both Officers' results were negative for the presence of drugs and alcohol.

The Crime Scene Investigation by ITF was able to verify that Lt. Edkin fired 3 shots and officer Kistner fired 2 shots. An additional shell casing was also found approximately 20 feet from where Mewes was positioned when he confronted Dale earlier. Initial ballistics review show that the casing came from the gun Mewes was holding.

ROCK ISLAND COUNTY STATE'S ATTORNEY REVIEW

On May 17, 2024, State's Attorney Dora A. Villarreal, was notified that the Integrity Task Force had been alerted to respond immediately to an officer-involved shooting in the City of East Moline. All reports, interviews, video footage and additional evidence was requested by the State's Attorney's Office from ITF in order to review the case in its entirety and determine whether the use of deadly force was justified.

LEGAL ANALYSIS REGARDING THE USE OF DEADLY FORCE

A. Law governing police use of deadly force

In the United States, police officers are authorized to use deadly force in the line of duty to protect themselves and members of the public from death or great bodily harm. The United States Supreme Court recognized the use of deadly force by a police officer is justified where the officer has "probable cause to believe that the suspect pose[s] a threat of serious bodily harm either to the officer or to others."¹

¹ *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).

B. Illinois Law Governing Deadly Use of Force

Under Illinois law, a police officer has the right to use force he reasonably believes is necessary to effectuate an arrest. 720 ILCS 5/7-4. However, an officer is only justified in using force likely to cause death or great bodily harm (deadly force) when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

- (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and
- (2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay. 720 ILCS 5/7-5.

The term “reasonable force” has been described as the minimum amount of force necessary given the circumstances of each situation. The circumstances of each situation include the presence of weapons, likelihood of continuing danger and presence of bystanders, amongst other factors.

The State of Illinois passed updates to its use of force law in 2021, which created a higher threshold for the use of deadly force by police officers.

In 720 ILCS 5/7-5(a), the legislature uses a totality of the circumstances approach in reviewing the reasonableness of use of force used by an officer making an arrest:

A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force that he reasonably believes, based on the totality of the circumstances, to be necessary to effect the arrest and of any force that he reasonably believes, based on the totality of the circumstances, to be necessary to defend himself or another from bodily harm while making the arrest.

Use of force likely to cause death or great bodily harm may only be used when an officer reasonably believes that such force is necessary to prevent death or great bodily harm to themselves or another person, both when:

- (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; the officer reasonably believes that the person to be arrested cannot be apprehended at a later date, and the officer reasonably believes that the person to be

arrested is likely to cause great bodily harm to another; and

- (2) The person to be arrested just committed or attempted a forcible felony that involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

The Illinois legislature places particular emphasis to the use of deadly force as by officers as force that must be reasonably necessary for the defense of human life in each particular situation. Threats of bodily harm and/or death against any officer are defined as “imminent” when there is an apparent intent to immediately cause such harm and must therefore be instantly confronted. 720 ILCS 7-5(2)(b)-(d).

C. Officers were Justified in Using Deadly Force on Eugene Mewes

In this incident, Mewes had a loaded semi-automatic weapon, and officers on scene were aware that he had already shot at one individual. Furthermore, Mewes refused multiple commands to drop the weapon, and instead told officers he was not going to drop the weapon and that his finger was on the trigger.

The incident occurred in the middle of a weekday, in a residential area and on a public sidewalk that was near a schoolyard. Officers had little time to deescalate the situation and prevent Mewes from firing the gun towards them or towards any bystander. Given these circumstances and Mewes’ repeated failure to follow commands to drop the weapon, Lt. Edkin was reasonable in firing the initial shot towards Mewes. Once Mewes pointed the gun towards officer Kistner, both officers were justified in shooting Mewes to prevent imminent harm to themselves.

After reviewing all of the video and audio of the officers who were at the scene, along with the reports from witnesses that day and the day before, Mewes remained an imminent threat to all of the officers at the scene until he finally dropped the gun to the ground.

Furthermore, it is reasonable to believe that both officers believed Mewes was ready to shoot towards either one of them, or towards any person outside at the time.

Given the totality of the circumstance in this very quick and very volatile incident, it is reasonable to believe that the officers were all in imminent danger of great bodily harm or death from Mewes’ refusal to drop the weapon and repeated pleas for officers to shoot him.

This threat was immediate and needed to be confronted instantly for the safety of the officers and any bystanders that were in the surrounding area.

D. Officers' Use of Force was Reasonable Under the Totality of the Circumstances

East Moline officer's use of deadly force against Mewes satisfies Illinois Stat. 720 ILCS 5/7-5, because the use of deadly force was necessary to protect themselves and their partners from a reasonable belief of imminent death or great bodily harm.

An objectively reasonable officer in the same situation would perceive that death or great bodily harm was imminent and that deadly force was necessary.

The circumstances known to the Officers at the time of the event also support their decision to use deadly force:

1. Officers knew that Mewes had a weapon;
2. Officers were aware that Mewes had just shot towards another person prior to their arrival;
3. Mewes refused to drop the weapon and stated his finger was on the trigger—leading to a reasonable inference that he would fire the gun again, imminently;
4. Mewes made suicidal statements—leading to a reasonable inference that he may shoot at an officer to provoke them into shooting;
5. Mewes was outside on a public street in the middle of the day, near a Community Room and a schoolyard; and
6. After Lt. Edkin's first shot hit the scooter, Mewes pointing his gun towards Officer Kistner.

The SAO will continue to review any additional information that is obtained or discovered regarding this incident. If any new or relevant evidence is discovered, the case will be reviewed for further consideration.

Thank you to the Integrity Task Force for their careful efforts to gather all evidence to ensure a complete review. Our thoughts are with the family and friends of the deceased, and also with the officers, who had to make this very difficult life or death decision.

Sincerely,



Dora A. Villarreal

Rock Island County State's Attorney