

**AMY K. DEVINE**  
**FIRST ASSISTANT COUNTY ATTORNEY**

Scott County Courthouse  
400 West Fourth Street  
Davenport, Iowa 52801-1104  
Telephone: (563) 326-8600  
[amy.devine@scottcountyiowa.gov](mailto:amy.devine@scottcountyiowa.gov)

---



**SUMMARY OF EVENTS**

**OFFICER INVOLVED SHOOTING, FEBRUARY 07, 2021**

The following is a summary of the officer involved shooting investigation by the State of Iowa Division of Criminal Investigation.

**Facts**

On February 07, 2021, at approximately 12:18 A.M., Bettendorf Police Officers responded to a residence located in the 2100 block of Central Avenue, Bettendorf, Iowa. Officers responded after a 911 call had been placed regarding a domestic incident. The 911 caller was frantic and had relayed information about a suspect who was going to try and kill the female victim. Officers responded to the residence and learned the name of the suspect, the name of the female victim, and were provided a vehicle description. Information relayed to officers at that time was that the female victim had possibly been kidnapped and the suspect was armed with a firearm. Officers were also told by a male at the scene, that the suspect had called him and threatened to kill him. Officers with the Bettendorf Police Department began to look for the vehicle at that time and even attempted to ping the victim's phone, but were unable to locate her. Approximately an hour and a half later, a second 911 call was placed by a caller who stated a suspicious vehicle had been sitting in the parking lot of Georgian Square for an hour, so officers responded to the parking lot of Georgian Square and discovered that the suspicious vehicle matched the vehicle involved in the prior domestic incident. The vehicle belonged to the victim and was a black Mazda CX-9. The female victim was located as the passenger of the vehicle. Brian Scott, the suspect, was in the driver seat of the vehicle. Officers asked Brian Scott to step out of the vehicle so they could ask him about the call for service they received regarding the earlier incident, but Scott refused to come out of the vehicle. Officers asked if the female victim could come out of the vehicle and Scott said no. The officers asked Scott multiple times if the female victim could step out of the vehicle. Scott asked why she had to leave the vehicle and then rolled up his window. After almost three minutes, officers were able to get the female victim out of the vehicle and took her to an officer's vehicle. Officers continued to speak to Scott through the window, which he slightly lowered again, and were trying to gain information from him about the earlier incident. Scott told the officers that the female victim had come with him willingly and he had done nothing wrong. At that same time, while seated with a Bettendorf Police Officer inside a nearby squad vehicle, the victim reported to other officers that Scott had a firearm, had put the gun to her head, and he had threatened to kill her with it. She reported to police that he had also threatened to kill her children, her mother, and himself. She told officers that she had not come there with Scott willingly and that he had thrown her phone out of the vehicle while he was driving. She also relayed to officers where Scott's gun was located in the vehicle—she told officers it was underneath the front passenger seat of the vehicle. Through their radios, officers relayed the information provided by the female victim to the officers speaking to Scott at the vehicle. At that time, three of the officers at the vehicle with Scott were

Sergeant Zachary Thomas, Officer Wyatt Flickinger, and Officer Zachary Gish. Sgt. Thomas was on the driver's side of the vehicle, along with Officer Flickinger, and Officer Gish was on the passenger side of the vehicle. Scott continued to refuse to come out of the vehicle and again rolled up his window. It was at that time that Sgt. Thomas observed Scott manipulating the controls of the vehicle near the ignition. Believing that Scott was going to try to flee, Sgt. Thomas yelled at Scott to show him his hands and told Scott he was being detained. Sgt. Thomas ordered Scott to open the door. Scott again refused to comply with the officer's orders. Scott had locked the doors, so officers were unable to open it.

Sgt. Thomas and Officer Gish were wearing body cameras and Sgt. Thomas can be heard on the recording calling out to Scott and telling him that the window would be shattered if he didn't come out of the vehicle. Sgt. Thomas struck the window with his baton a first time, but was unsuccessful. After a second strike with the baton, Sgt. Thomas could see Scott lean toward the passenger seat. On the third strike with the baton, Sgt. Thomas could see Scott's right arm coming across his body. On that third strike, the glass was shattered by Sgt. Thomas. Captured on Sgt. Thomas's body camera, almost immediately following the shattering of the glass, a gunshot and muzzle flash can be seen coming from inside of the vehicle to the outside of the vehicle's front driver's side window.

While all of that was occurring, Officer Gish, who was on the passenger side of the vehicle, also observed Scott lower his right hand and begin to lean down toward his side, in between the seats. Knowing the firearm was on that right side of Scott, under the seat, Officer Gish yelled at Scott to put his hands up. Officer Gish could then see that Scott had a black firearm in his hand and saw Scott turn his body toward Sgt. Thomas and Officer Flickinger. At that time, Officer Gish fired his own duty weapon into the vehicle. Gish fired his weapon four times. Captured on Gish's body camera, five shots are heard. There is a clear break in the sequence of gun shots. It appears the initial gunshot comes from the driver's side of the vehicle, while the other four shots appear to come from Officer Gish. The front passenger side window shatters immediately following Officer Gish's first shot. After the shots are fired, another officer is heard on the body camera yelling to officers "it's in his lap, it's in his lap." Scott was struck by Officer Gish's gun fire and suffered 4 gunshot wounds. The firearm was in Scott's lap, with his right hand on top of the firearm, when officers were able to remove him from the vehicle.

Officers extracted Scott from the vehicle, rendered emergency medical aid, and called for paramedics. Scott died as a result of his injuries. Officers located one shell casing inside of the vehicle. Four shell casings were located outside on the passenger side of the vehicle where Officer Gish fired his duty weapon. The DCI Laboratory confirmed that the shell casing located inside of the vehicle matched the firearm that Scott possessed.

### **Legal Conclusion Regarding Use of Force**

Iowa Code Section 704.1 defines reasonable force. "Reasonable force" is that force and no more which a reasonable person, in like circumstances, would judge to be 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, or it is reasonable to believe that such force is necessary to resist a like force or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to life or safety, or the life or safety of a third party, or requires one to abandon or retreat from one's dwelling or place of business or employment.

The evidence in this case shows the use of force by Officer Gish was justified and reasonable under the circumstances. Brian Scott's actions of brandishing and shooting a firearm put the lives and physical safety of Officer Gish and other officers at risk. It was reasonable and necessary for Officer Gish to fire his weapon to prevent injury or death to himself, other officers, and even the female victim in the parking lot that morning.

---

Please direct any questions by email to Amy DeVine, First Assistant County Attorney, at [amy.devine@scottcountyiowa.gov](mailto:amy.devine@scottcountyiowa.gov).