



Office of the
Des Moines County Attorney

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February 27, 2015

TO: DCI - AGENT MATTHEW GEORGE

RE: OFFICER INVOLVED SHOOTING OF MRS. AUTUMN STEELE
OFFICER INVOLVED – OFFICER JESSE HILL

Dear Agent George,

I am writing to you to advise that I have completed my review of the DCI investigation involving the fatal shooting of Mrs. Autumn Steele by City of Burlington, Iowa Police Officer Jesse Hill that occurred on January 6, 2015. My findings are as follows:

Code Of Iowa Section 331.756(1) provides that a county attorney shall diligently enforce or cause to be enforced in the county, state laws and county ordinances, violations of which may be commenced or prosecuted in the name of the state, county, or as county attorney, except as otherwise provided.

The Iowa DCI investigated the shooting incident, and forwarded the details of the investigation to me, pursuant to my statutory duties as Des Moines County Attorney, to determine whether criminal charges are warranted against Officer Hill. In the course of my review, I, along with one of my Victim/Witness Coordinators and the DCI, met with Mr. Gabriel Steele and his attorney, Mr. Trent Henkelvig. Mr. Steele was a witness to the incident, as well as the spouse of Mrs. Steele.

In summary, the facts are as follows:

On or about January 5, 2015, Autumn Steele was arrested and charged with Serious Domestic Abuse Assault in Des Moines County Cause No. SRIN022279 for an assault on Gabriel Steele. Autumn Steele appeared before the Court on the morning of January 6, 2015, at which time a No Contact Order was entered prohibiting her from making/ having contact with Mr. Steele, preliminary hearing was scheduled, and she was released by the Court from custody.

At some time in the morning after being released from custody on January 6, 2015, Autumn Steele went to the residence she and Gabriel Steele share at 104 South Garfield Street,

Burlington, Des Moines County, Iowa. There was snow on the ground on this date. Gabriel Steele called 911 to report a domestic assault occurring involving Autumn Steele and further advised Dispatch that she had been arrested the previous day.

Officer Jesse Hill responded from the Indian Terrace area to the Steele residence. As Officer Hill was arriving, he observed a man (Gabriel Steele) coming out of the house walking fast with a child in his hands. He observed Autumn Steele outside running behind Gabriel Steele, grabbing the back of Gabriel Steele's shirt, pulling him down, and hitting Gabriel Steele in the back of the head. Officer Hill advised Police Dispatch that the two individuals were outside fighting. He opened the door of his police vehicle, activated his body camera video, and ran over to where Autumn and Gabriel Steele were.

Upon approaching, Officer Hill made contact with Autumn Steele to try to pull her away from Gabriel Steele and split them up, as she was then punching and slapping Gabriel Steele. Officer Hill moved a couple steps with Autumn Steele, and a dog owned by the Steeles started growling and ultimately bit Officer Hill on the thigh. Photographs were taken of Officer Hill's injury. The dog is an adult, male German Shepherd named Sammy.

Officer Hill had advised the Steeles to get the dog, but the dog continued toward Officer Hill. Officer Hill drew his duty weapon, the dog continued toward Officer Hill, and Officer Hill fired his weapon as he fell backwards. Officer Hill fired his weapon a second time as he fell backwards into the snow.

Officer Hill was unaware he had shot Autumn Steele, and was advised by Gabriel Steele that she had been shot. An ambulance was requested through Dispatch for Autumn Steele. Officer Merryman arrived at the scene and began to provide assistance. Officers could not locate a gunshot wound on Autumn Steele. Officers performed chest compressions on Autumn Steele while awaiting an ambulance. Gabriel Steele was asked to put the dog away, and he remained on scene. Autumn Steele and the Steele's dog sustained gunshot wounds. The wound to the dog appeared to the veterinarian to be a grazing injury – no projectile was recovered from the dog.

There are two independent witnesses who reported the following:

1. A neighbor reported that he saw the dog running and jumping up and down at the Steeles as they came outside of their residence in an argument. He observed Autumn Steele swinging and "walling" on Gabriel Steele. He reported that he "saw the dog and thought it was going to be a mess." He reported that the dog saw the officer running, the dog came running toward the officer, and the dog jumped on the officer's back. He stated that the officer probably did not see the dog until then. The officer spun around and tried to back peddle away, and started falling backward. In a matter of seconds, he believed one shot was fired before the officer fell and was 100% certain that one shot was fired while the officer was falling. The neighbor did not personally know the Steeles. This statement was audio recorded.

2. A second witness was driving by the residence going south at the time of the incident. She observed two people come out of the residence, one was punching the other on the back and in the face. She observed a dog that was "riled up" and following the two individuals. She observed the officer run up to the individuals. At this time, she passed by and then heard gunshots. She saw the dog and a person on the ground. This statement was audio recorded.

Autumn Steele was subsequently pronounced deceased, and an autopsy was conducted by Dr. Dennis Firchau, M.D. at the University of Iowa Hospitals and Clinics. Autopsy revealed a gunshot wound to her right arm and a gunshot wound to her chest. The gunshot wound to her chest was determined to be the cause of death. The manner of death was homicide. Homicide in the medical sense is a death at the hands of another, and not the legal criminal definition of homicide. The legal criminal elements are discussed below.

Alcohol and drug tests were negative for both Autumn Steele and Officer Hill. It was determined that Officer Hill fired two gunshots.

The above-described facts are corroborated in the body camera video evidence, witness statements, reports and documentation provided in the DCI investigation.

Additionally, in a separate incident on October 11, 2014, Officer Hill responded to 110 North Garfield Street, Burlington, Iowa on a call of a pit bull running loose. Dispatch advised Officer Hill that the dog had been vicious in the past. Upon arrival, Officer Hill observed a red and white pit bull in between the houses at 110 N. Garfield and 114 N. Garfield. The complainant at 110 N. Garfield reported to Officer Hill that the pit bull had attacked her dog a couple of weeks prior. Officer Hill proceeded to 114 N. Garfield to speak with the dog's owner. A female exited that residence with a black and white pit bull mix named Ram. She was advised to put that dog back inside the residence. Ram barked a couple times as she was doing so, and the red and white pit bull that was loose (named Raw) ran to Ram and began to attack Ram. Raw was biting Ram on the neck and back areas. Efforts to separate the dogs were unsuccessful. Officer Hill asked the female to get herself and her child out of the way, and he then deployed a cartridge from his taser, striking Raw. After the charge, Raw ran to the back yard of 114 N. Garfield.

ANALYSIS:

Code of Iowa Chapter 707 (2015) sets out Homicide and Related Crimes.

Section 707.1 defines Murder as follows:

A person who kills another person with malice aforethought either express or implied commits murder.

The Iowa Jury Instruction defining "Malice Aforethought" states the following:

"Malice is a state of mind which leads one to intentionally do a wrongful act [to the

injury of another] [in disregard of the rights of another] out of actual hatred, or with an evil or unlawful purpose. It may be established by evidence of actual hatred, or by proof of a deliberate or fixed intent to do injury. It may be found from the acts and conduct of the defendant, and the means used in doing the wrongful and injurious act. Malice requires only such deliberation that would make a person appreciate and understand the nature of the act and its consequences, as distinguished from an act done in the heat of passion.

"Malice aforethought" is a fixed purpose or design to do some physical harm to another which exists before the act is committed. It does not have to exist for any particular length of time."

Section 707.2 sets out the crime of Murder in the First Degree:

1. A person commits murder in the first degree when the person commits murder under the following circumstance:
 - a. The person willfully, deliberately, and with premeditation kills another person.

There is no evidence that would show that Officer Hill willfully, deliberately, and with premeditation killed Autumn Steele. Officer Hill did not know Autumn Steele, he made no threats towards her, and was unaware that he had shot her.

Section 707.3 sets out the crime of Murder in the 2nd Degree:

1. A person commits murder in the second degree when the person commits murder which is not murder in the first degree.

A charge of Murder in the 2nd Degree must also be supported by evidence of malice aforethought consistent with Section 707.1. The facts do not show that Officer Hill acted with an evil or unlawful purpose directed at Autumn Steele. There is no proof of a deliberate act by Officer Hill to do injury to Autumn Steele. There is nothing in the investigation that would suggest or show that Officer Hill had a design to kill Autumn Steele before he fired his weapon.

There is no evidence that supports a finding that Officer Hill intended to use deadly force against Autumn Steele. The evidence shows that Officer Hill drew and fired his duty weapon in response to the unconfined dog to protect himself from injury. One of the two shots fired appears to have been fired as a result of Officer Hill falling down into the snow.

Therefore, a Murder charge is not warranted against Officer Hill.

Iowa Code Section 707.4 provides for Voluntary Manslaughter:

A person commits voluntary manslaughter when that person causes the death of another person, under circumstances which would otherwise be murder, if the person causing the death acts solely as the result of a sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a person and there is not an interval between the provocation and the killing in which a person of ordinary reason and temperament would regain control and suppress the impulse to kill.

In analyzing the matter to determine if a charge of Voluntary Manslaughter is warranted, Officer Hill did cause the death of another person, but for the reasons stated above, the circumstances would not otherwise be murder. Autumn Steele was engaged in a physical domestic assault against her husband at the time of Officer Hill's response. Officer Hill did not cause her death as a result of a sudden, violent, and irresistible passion resulting from serious provocation by Autumn Steele.

Officer Hill fired his weapon in response to the unconfined dog to protect himself from injury. The facts do not show that he fired his weapon at Autumn Steele in response to provocation from her or that he had a violent, irresistible passion as a result.

Iowa Code Section 707.5 provides for Involuntary Manslaughter:

A person commits voluntary manslaughter when the person unintentionally causes the death of another person by the commission of a public offense other than a forcible felony or escape.

The facts do show that Officer Hill unintentionally caused the death of Autumn Steele. For a charge of Involuntary Manslaughter to be warranted, Officer Hill must have been committing a public offense at the time he caused her death.

Officer Hill was responding to the 911 call from Gabriel Steele for assistance in a domestic assault. Officer Hill was not committing a public offense, he was there to investigate a public offense. In the course of that response, Officer Hill essentially engaged in two acts: (1) Officer Hill acted to separate Autumn and Gabriel Steele as Autumn Steele was physically assaulting Gabriel Steele, and (2) Officer Hill fired two shots from his duty weapon to protect himself from injury from the dog.

The first act is not a public offense.

The second act resulted in the death of Autumn Steele, but also injury to the dog.

In considering whether the act of injuring the dog constitutes a public offense, Iowa Code Section 717B.2, Animal Abuse, provides:

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. This section shall not apply to:

(9) A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

By firing the first shot, it can be inferred that Officer Hill likely intended to injure the dog. The second shot appears to have been fired as a result of Officer Hill falling into the snow, and not done intentionally. The question becomes whether Officer Hill reasonably acted to protect a person from injury or death caused by an unconfined animal when he fired the first shot.

Clearly the dog was unconfined. This is corroborated by the independent witnesses, Mr. Steele, and Officer Hill.

Iowa Criminal Jury Instructions set forth "Reasonable Belief" as follows:

The defendant was not required to act with perfect judgment. However, [he] [she] was 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 defendant's mind the [danger] [danger of loss of property] [need to use force to prevent (name of forcible felony)] was 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.

Therefore, was Officer Hill's act of firing the first shot reasonable?

The facts are:

1. The dog attacked Officer Hill.
2. The neighbor reported that the dog jumped on Officer Hill's back.
3. Officer Hill advised the Steeles to get the dog.
4. Neither Gabriel nor Autumn Steele restrained the dog.
5. The dog again attacked Officer Hill and bit Officer Hill on his thigh.
6. The dog caused Officer Hill to fall backwards, and Officer Hill ultimately fell into the snow. This caused Officer Hill to fire a second shot.
7. This was a physical domestic assault situation in which witnesses observed Autumn Steele punching, hitting, and slapping Gabriel Steele.
8. Officer Hill was alone responding to a volatile situation.
9. This was the second call of a domestic assault involving the Steeles in a 2-day period.
10. Autumn Steele was at the residence in violation of a No Contact Order that was issued that morning before she was released from custody.
11. The neighbor made a statement to DCI that once he saw the dog, he thought it was going to be a mess.
12. Officer Hill had responded to a vicious animal complaint in October, 2014 in which even though he had deployed his taser, the pit bull in that matter was able to run off.

Based upon all of the factors described in this review, Officer Hill's actions could be determined to be reasonable under the circumstances to protect himself from injury.

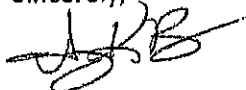
Therefore, based upon my review of the case with the Iowa Division of Criminal Investigation and a full review of the facts and circumstances provided to me concerning the death of Mrs. Autumn Steele, it is determined that no criminal charges against Officer Jesse Hill are supported by the evidence. Officer Hill was faced with the decision to shoot in an instant. He had to process the situation alone, and made the decision at the time the threat was occurring.

Finally, although this was not a deciding factor in my determination, it is unknown which gunshot struck Autumn Steele, but it was the gunshot to the chest that resulted in her

death. It is possible that it was the second gunshot that went to Autumn Steele's chest. It is without saying that her death was tragic.

No criminal charges will be filed against Officer Jesse Hill. If you need further assistance or have any questions, please do not hesitate to contact me. I will return the case file to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'AKB', with a long horizontal flourish extending to the right.

Amy K. Beavers

Des Moines County Attorney