
September 19, 2024



**Iowa Attorney General's Review
of Officer Involved Death**

Incident of July 30, 2024
Des Moines, Iowa
Des Moines Police Officers Jesse Schneider and Anthony
Lampman
Subject Involved: Weston Derby

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Executive Summary

The Iowa Attorney General's Office concludes that the fatal shooting of Weston Derby by law enforcement on July 30, 2024, was legally justified.

At approximately 3:30 a.m. that morning, Officers Jesse Schneider and Anthony Lampman responded to a 911 call and learned that Weston Derby had unexpectedly appeared at the home of a woman who had obtained a protective order against him earlier that day. The woman reported that Derby was acting "psychotic" and had left in what appeared to be a stolen SUV.

Officer Schneider soon located Derby, who was driving the stolen car. Derby sped away, eventually lost control of the car, and then got out of the car holding what appeared to be a handgun. Officer Schneider and Officer Lampman, who had joined the chase, ordered him to drop the weapon, but Derby refused and instead pointed it at the officers. The officers opened fire. Derby was fatally shot. The weapon he was carrying was later revealed to be a pellet gun that was nearly indistinguishable from a semi-automatic handgun.

The officers reasonably believed that Derby was a serious and immediate threat to their lives and that deadly force was reasonably required to stop the threat. The Attorney General's Office therefore concludes that criminal charges are not warranted and considers the investigation to be closed.

Process and Authority

Law enforcement officers fatally shot Weston Derby at approximately 4:00 a.m. on July 30, 2024, in a grassy area just off the roadway near the intersection of SE 45th Street and East Army Post Road, in Des Moines, Iowa. The incident involved two Des Moines police officers who responded to an emergency call for assistance from Judy Daniel.

The Iowa Division of Criminal Investigation (DCI) investigated the incident, and its investigation is complete. DCI interviewed the officers involved and reviewed the officers' body cameras. DCI interviewed Daniel. They secured photographs, video recordings, and gathered evidence and reports from the Des Moines Police Department and the Iowa State Medical Examiner's Office.

The Attorney General's Office has authority under Iowa Code § 13.12 to assess any officer-involved death to determine whether criminal charges are warranted. The Office had a full opportunity to review the findings of the investigation and discuss the investigation with the assigned agent. All law enforcement reports, including audio or video recordings, will be returned to DCI when this report is issued.

Pertinent Facts

A. History

Weston Derby was a 45-year-old, white male, whose last known address was in Nebraska. He had a criminal history which included arrests for offenses such as Terroristic Threats, Burglary, Possession of

a Controlled Substance, Violation of a Protective Order (2x), Trespass, Assault, Driving While Intoxicated, Theft, and Disorderly Conduct. According to law enforcement records, he was on probation at the time of the incident. Records revealed he had a history of violence with law enforcement and had previously attacked an officer with the intent to get the officer to shoot him. He had a lengthy history of illegal-drug usage including the use of methamphetamine.

B. Timeline.

1. Request for help by Judy Daniel.

Judy Daniel and her son live in a home on the southeast side of Des Moines. On Friday, July 26, 2024, as Daniel was preparing to go to work, Weston Derby unexpectedly appeared at her house and confronted her in the garage. Frightened by his actions, she distanced herself from him. He walked over to her and tried to grab her arm. She resisted him. He said he wanted to talk to her, and she told him she was not interested in talking with him. She told him to leave, or she would call the police. She noticed he was acting strange, and his facial expression was unusual. She described the look on his face as if something was “missing.” After she told him to get off her property, he left. She did not see the vehicle he left in. To her knowledge, he was still living in the Omaha area.

After Derby left, Daniel went to work, returned home, and spent the evening at her residence. Derby came to her home five different times

that evening. She saw him approach her front door from her video surveillance camera. She did not answer the door or speak with him. He left a potted plant and a letter near the front door. Derby's behavior and the contents of letter scared her. In the letter he threatened if she did not meet him at a specific location, at a specific time, he would drown a small animal he got her in a nearby lake.

Daniel called and requested assistance from the Des Moines Police Department. She reported she was scared for her safety and the safety of her 14-year-old son. She reported that in 2016, she and Derby were both living in the Omaha area and began dating. She obtained a protective order against Derby in Nebraska in 2018 because he was physically and verbally abusive to her and her son, who at the time was eight years old. Her son is not related to Derby. While living in Nebraska, Derby grabbed her by the arm leaving bruises, threw items at her, screamed in her face, and repeatedly called her names. She told law enforcement she was "terrified" of him, and he violated the previous protective order. She shared that the earlier order expired and she and her son eventually moved to Iowa. The last time she had contact with Derby before that day was in 2021.

Officer Schneider responded to Daniel's initial call and spoke to her. He provided her with advice but was unable to locate Derby at that time.

2. Derby returns three days later.

On Monday, July 29, at approximately 5:45 a.m., Derby appeared again unannounced at Daniel's home. He left another letter near her front door. She did not interact with him but retrieved the letter after he left. She described the letter as "hateful;" in the letter Derby blamed her for destroying his life. He referenced in the letter a previous attack he committed on a police officer in an attempt to get the officer to shoot him. Instead of reporting for work, Daniel went to the courthouse and obtained a protective order against Derby.

On July 30, at approximately 3:30 a.m., Derby appeared at her home. Daniel reported to police he stood near the front door with a "creepy" look on his face. He told her through the surveillance camera not to call the police. She was scared so she called the police, but he left before police arrived.

Officers Schneider and Lampman responded to the call. Daniel told the officers she thought Derby was on drugs and could be driving a stolen vehicle. She thought he was possibly driving a silver SUV. She shared that he had left a threatening letter and that she had obtained a protective order. The officers determined the protective order had not been served on Derby but planned to locate him so he could be served. After gaining additional information, Officer Schneider left the residence believing he may know where Derby was located.

Officer Lampman continued to speak with Daniel. She reported he was a “psycho” and that she would not put anything past him. Officer Lampman searched the area near her home until he heard police sirens nearby. A short distance away, Officer Schneider had located Derby in a silver SUV and attempted to stop him, but he fled. Officer Lampman got into his marked police vehicle and assisted Officer Schneider in trying to stop Derby.

3. The officers find Derby, who points a pistol at them.

After leaving Daniel’s house, Officer Schnieder, in his marked police vehicle, had driven near Easter Lake to search for the silver SUV. He located a silver 2008 Volvo XC90, stolen from a residence in Council Bluffs a few days before. Attached to the stolen vehicle were stolen license plates taken from another vehicle at the Days Inn in West Des Moines the day before. Officer Schneider turned on his overhead lights and siren signaling for Derby to stop. Derby instead accelerated and tried to elude the officer. Officer Schneider pursued, observing that Derby was recklessly driving too fast for the rain-covered streets.

After pursuing Derby for some time, Officer Schneider attempted to use a PIT (Precision Immobilization Technique) maneuver to stop him. Derby lost control and drove the SUV into a ditch near the intersection of SE 45th and East Army Post Road. The SUV went through tall grass

and came to rest near a cornfield and some trees. It was both dark and raining.

Officer Schneider stopped his police car and ran towards Derby and the SUV. Derby got out of the SUV and stood in front of the stolen vehicle. Officer Schneider was also in front of the stolen vehicle, approximately ten feet away from Derby. The SUV's headlights were shining on both Officer Schneider and Derby resulting in them both being visible. Derby was armed with what appeared to be a semi-automatic handgun. He pointed the weapon at his head. Officer Schneider, wearing his police uniform, pointed his gun at Derby and told him to drop to the ground. Officer Lampman, who was also present and wearing a police uniform, made similar commands. The officers were only a few feet away from Derby.

Derby refused to comply with the officers' orders. Instead, Derby told the officers he was going to point the gun at himself and then the officers, so they would shoot him. Derby told the officer not to f*** with him and to leave him alone. Derby then pointed the weapon at his head. The two officers demanded multiple times for Derby to drop the gun. He did not. Using both hands with arms extended, he pointed the weapon at the officers as if he were going to shoot them. Both Officers Schneider and Lampman opened fire, striking Derby multiple times. Derby fell to the ground.

After the gunshots, Officer Schneider realized he was injured. Officer Lampman immediately called for the assistance of other officers and medical personnel. Officers and medical personnel provided medical aid to both Derby and Officer Schneider.

Derby died at the scene from multiple gunshot injuries. Found next to him was a WP4: Black Gamo brand P-27 Dual 0.177 caliber pellet gun. The photograph below compares the pellet gun (left) to an actual semi-automatic handgun (right).



The State of Iowa Medical Examiner's Office performed the autopsy and confirmed that Derby died from multiple gunshot injuries.

Applicable Law

To be justified, the force an officer uses must be reasonable. Force is reasonable if a reasonable person, in like circumstances, would judge the force to be necessary to prevent an injury or loss. It can include deadly

force if (1) it is reasonable to believe that such force is necessary to avoid injury or risk to the person's or another person's life or safety and (2) 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 or the perspective afforded by 20/20 hindsight. The Court further stated that the fact that law enforcement officers are often 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.

Analysis

Officer Schneider's and Lampman's actions and the use of deadly force were legally justified. Their decision to fire their handguns at Derby was reasonable under the circumstances. The officers tried to defuse the situation without the use of force by using commands. Despite multiple commands to drop his weapon and to lay on the ground, Derby refused to comply. Instead of cooperating, Derby escalated the situation by making

threats to harm the officers. He was a few feet away from the officers when he threatened them with a weapon nearly indistinguishable from a semi-automatic handgun.

The officers knew Derby had a history of violence, was an illegal drug user, and was determined by a court to be a threat. They also knew he had a history of noncompliance with authorities. They witnessed firsthand his unwillingness to comply with officers' directives by ignoring the signals to stop his vehicle and their multiple commands to drop his weapon and lie on the ground. The officers made multiple attempts to resolve the situation peacefully before using deadly force. The deadly force was used only after he made threats to kill them and intentionally pointed his weapon at them in a threatening manner.

Conclusion

The Iowa Attorney General's Office concludes that law-enforcement officers' actions in this incident were legally justified and that criminal charges are unwarranted. It considers the criminal investigation into this incident to be closed.