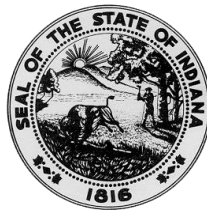


Jeffrey A. Chalfant
Prosecuting Attorney



Jackson County Judicial Center
109 S. Sugar Street, Suite 220
Brownstown, IN 47220
812.358.6130 • fax 812.358.6191

FINDINGS OF PROSECUTOR REVIEW OF OFFICER INVOLVED SHOOTING

This written report serves as the Jackson County Prosecuting Attorney's findings regarding an officer involved shooting which occurred on November 1, 2020, in the City of Seymour, Indiana.

PROCEDURAL BACKGROUND

1. On November 1, 2020, officers of the Seymour Police Department were involved in a use of deadly force incident wherein a Jason S. Cline, a 43-year-old white male, was fatally wounded by police gunfire.
2. Authority is with the Office of the Jackson County Prosecuting Attorney to review the use of deadly force that occurs within Jackson County, Indiana, regardless of whether that force is used by a civilian or law enforcement officer. Said review is to determine whether the use of deadly force was in violation of Indiana Law or was legally justifiable.
3. Jackson County Prosecuting Attorney Jeffrey A. Chalfant (hereinafter "Prosecutor Chalfant") was contacted by the Seymour Police Department in the later evening of Sunday, November 1, 2020, and advised that there had been an officer involved shooting involving Seymour Police Officers. Prosecutor Chalfant notified his Chief Deputy Prosecuting Attorney Mark Hollingsworth (hereinafter "Chief Deputy Hollingsworth") of the incident and then personally responded to the scene followed shortly thereafter by Chief Deputy Hollingsworth.

Prosecutor Chalfant and Chief Deputy Hollingsworth found the incident scene to be secured off by Seymour Police Officers who were assisted by Jackson County Sheriff's Deputies and other law enforcement officers. Prosecutor Chalfant and Chief Deputy Hollingsworth received a short briefing on scene as to the basics of what had occurred sufficient to put into context what was observed on scene. An advisement was also made that the Seymour Police Department had requested that the Indiana State Police conduct the investigation into this incident and the Indiana State Police agreed to conduct the investigation.

4. The Indiana State Police conducted a thorough investigation into the events that led up to the officer involved shooting and the use of deadly force itself. The results of that investigation, aside from Indiana State Police Laboratory testing results, were presented to Prosecutor Chalfant on December 18, 2020, for review. Indiana State Police Laboratory reports were provided to Prosecutor Chalfant, with the final Laboratory report provided to Prosecutor Chalfant on March 9, 2021.

5. That upon receipt of the Indiana State Police Investigation the Prosecuting Attorney reviewed all investigative reports, police officer statements, civilian witness statements, Indiana State Police Laboratory Crime Scene Investigator reports, diagrams, photographs, Seymour Police body camera videos, police radio dispatches, autopsy report, cell phone video, relevant Jason Cline criminal history, and officer training records.

6. Prosecutor Chalfant obtained court records relevant to the review of this incident.

7. Prosecutor Chalfant met with Indiana State Police Detective Joe Loyd, the lead investigator in this investigation, and reviewed the Indiana State Police findings.

8. Prosecutor Chalfant spent a significant amount of time analyzing and focusing on the forensic and photographic evidence obtained from the incident scene, officer body camera

videos, cell phone video, diagrams, reports, autopsy findings and personal view of the incident scene to compare and put into context witness and officer statements to make a determination in this review.

SHOPLIFTING (THEFT) FROM WALMART AND THE FLEEING SUSPECT

On Sunday, November 1, 2020, at approximately 8:27 pm an employee from the Walmart store located at 1600 E. Tipton Street (U.S. Route 50), Seymour, Indiana contacted the Seymour Police Department and advised that an individual had walked out of the store with a cart full of items valued at more than \$700 without paying for the merchandise. The caller further advised that the individual was walking across the store parking lot in the direction of the Murphy USA gas station that sits to the immediate north of the Walmart on the same property. The shoplifting (theft) suspect had a cart full of merchandise and had gone to a self-checkout lane and was scanning items, however, did not actually check out and pay for the merchandise and walked out of the Walmart without paying. The suspect was confronted by Walmart loss prevention but the suspect just continued on pushing the shopping cart through the Walmart parking lot to at first the Murphy's USA Gas Station, then on to the Speedway Gas Station all the while being monitored by Walmart loss prevention who video recorded the suspect's actions.

Note that Seymour Police officers responding to the Walmart is a routine event for the Seymour Police Department (in 2020 the Seymour Police responded to the Walmart store over 330 times). Seymour Police Department dispatched Officer Blake McCrary to respond to the Walmart providing Officer McCrary with information regarding the nature of the call (a theft), a description of the theft suspect and his direction of travel. At the time of the dispatch Officer McCrary, who was in a Seymour Police Department uniform and driving a fully marked

Seymour Police Department Chevrolet Tahoe, was driving on Tipton Street just west of the Walmart in the area of the Jackson Park Shopping Center and was able to respond to the Walmart in seconds. Seymour Police Officer Cody Teltow, also in a Seymour Police Department uniform and driving a fully marked Seymour Police Department vehicle, happened to be near the Walmart at the time of the dispatch, overheard the dispatch, and indicated that he would also respond to assist Officer McCrary. The extent of the information that Officers McCrary and Teltow had regarding the shoplifting (theft) suspect was a clothing description, that he had a cart full of merchandise and a direction of travel toward the Murphy USA Gas Station. The Officers did not have any information that the suspect may be armed, no information as to any unusual mental condition, whether natural or a result of intoxicants, and no information as to the identity of the suspect. Upon arrival Officer McCrary received information that the suspect had traveled further westbound and northbound toward the Speedway Gas Station. The Speedway Gas Station is located right along the south side of Tipton Street, north of the Walmart and the Murphy USA Gas Station. Officer McCrary, while still at the Murphy USA Gas Station, saw the suspect who matched the suspect description pushing a shopping cart near the Speedway Gas Station. Officer McCrary broadcast this information on his police radio leading Officer Teltow to pull his police vehicle into the Speedway Gas Station while Officer McCrary was still in route to the Speedway Gas Station in his police vehicle. Officer Teltow was the first Officer to have contact with the suspect at the Speedway Gas Station, wherein the suspect immediately began running from Officer Teltow and Officer Teltow pursued the suspect on foot while radioing that he was in a foot pursuit. Based on this information from Officer Teltow, Officer McCrary activated his emergency lights and siren on his police vehicle and drove westbound on Tipton Street toward the AT&T store located further west on the south side of

Tipton Street with the purpose of intercepting the fleeing suspect. Officer McCrary saw Officer Teltow's police vehicle with its emergency lights activated at the Speedway Gas Station, however, did not see Officer Teltow or the suspect. Officer McCrary then pulled into the AT&T Store parking lot and got out of his vehicle. Officer Teltow meanwhile was pursuing on foot the fleeing suspect who was running northbound across Tipton Street toward the Taco Bell restaurant which sits on the north side of the street. Officer McCrary then observed the running suspect with Officer Teltow a short distance behind the suspect closing the distance on the suspect. Officer McCrary then ran on foot northbound across Tipton Street toward where Officer Teltow and the suspect ran.

PHYSICAL ENCOUNTER WITH THE SUSPECT IN FRONT OF THE TACO BELL

As the suspect ran northbound across Tipton Street, Officer Teltow caught up with him just as the suspect reached the ditch which sits just north of Tipton Street between the street and the Taco Bell. Before continuing further with the events that occurred at this location, a brief description of the ditch is necessary. This ditch drops in elevation from the surface of Tipton Street just over seven feet, with a sharp elevation drop where the ground is covered with riprap ("riprap" is essentially chunks of loose concrete used to prevent erosion on an embankment). At the bottom of the ditch is a small stream used for drainage purposes and where the ditch has a small peninsula protruding into the stream.

Officer Teltow was in close pursuit of the suspect when the suspect fell down the riprap embankment to the bottom where the stream and small peninsula are located. Officer Teltow also went down the embankment, not quite falling, ending up where the suspect was located. Officer Teltow was essentially straddling the suspect attempting to gain control of his arms and

hands in order to handcuff the suspect. Upon Officer McCrary's arrival down toward the bottom of the ditch Officer McCrary had in his hands his issued taser (an electronic stun device). Officer McCrary could see that the suspect still had his right hand tucked under his body. Officer McCrary ordered the suspect to show his arm or else he would be tased. Officer McCrary is trained in the usage of a taser but is additionally trained as a taser instructor and is well aware of the capabilities and shortcomings of a taser. Given this background Officer McCrary realized that given the coat that the suspect was wearing his taser would be ineffective in penetrating the suspect's coat sufficient for the taser probes to make sufficient contact with the body of the suspect to work as designed (note that it was fairly cold out at the time of the incident). As Officer McCrary is still pointing his taser at the suspect, Officer Teltow is still wrestling with the suspect trying to gain control of him, but the suspect was able to lift himself up somewhat from the ground and he rolls to his right side enabling Officer McCrary to see the suspect's right hand. Officer McCrary sees that the suspect has a handgun in his hand and is holding it in a one-handed shooting grip and is turning his head to his left side looking at Officer Teltow and pointing the handgun upward toward Officer Teltow's face which was only inches from the suspect's pistol. Officer Teltow yelled out "gun" as Officer Teltow (who at the time did not have any weapon in his own hands) struck at the suspect's right arm with his left arm attempting to dislodge the handgun from the suspect's right hand. Officer Teltow's attempt to disarm the suspect of his pistol was not successful, but it did momentarily redirect the suspect's pistol from pointing at the Officers. The suspect, however, was able to bring the handgun back up again. Upon the suspect drawing a handgun on the officers, Officer McCrary discarded his taser which he had been holding in his hand and transitioned to his handgun. Officer Teltow pushed himself off the suspect and when Officer Teltow was clear of the suspect Officer

McCrary fired a total of nine shots at the armed suspect (as will be discussed further in the *Indiana State Police Crime Scene Investigators and Laboratory* and *Autopsy* sections of this report, a significant percentage of Officer McCrary's shots missed the suspect).

Officer McCrary's initial shots did cause the suspect to fall back to the ground momentarily only to begin getting back up again. At this point with the suspect not incapacitated and still not complying with the officer's commands or ceasing his actions, Officer McCrary fired an additional four shots with Officer Teltow firing four shots nearly simultaneously. This second set of shots fired by the officers did cause the suspect to fall back onto the ground (as well as into the water of the stream) whereupon the suspect was now talking to the officers asking them to "please stop, I'm done." These were the first words that had been uttered by the suspect throughout the entire encounter. It was at this point that the suspect's deadly force threat was negated, and no further deadly force was used by the officers upon the suspect. Officer McCrary called out on his radio "shots fired" and for emergency medical services to respond.

The assisting Seymour Police officers who responded on scene after the shooting pulled the suspect from the peninsula and water and began rendering medical aid to the suspect. This medical assistance to the suspect was then taken over by emergency medical services (ambulance medics) upon their arrival on scene.

SEYMOUR POLICE BODY WORN CAMERA VIDEOS

Officer Teltow was wearing a body worn camera during the incident of November 1, 2020, whereas Officer McCrary was not. It is difficult to see what is occurring on Officer Teltow's video of the incident due to the darkness in the drainage ditch. During the struggle

Officer Teltow was having with the suspect Officer Teltow's body worn camera was knocked off his uniform. Most law enforcement agencies in Jackson County utilize clip on body worn cameras which is the most common type of camera used by police, and it is not uncommon that they can become dislodged from an officer's uniform. The audio from Officer Teltow's body worn camera is clear and a significant struggle can be heard on the recording. Multiple commands by the officers can be heard for the suspect to stop resisting and to show his hands, and well as being told by Officer McCrary that he would be tased if he did not comply. These officer commands were given to the suspect prior to any shots being fired by the police officers.

Responding officer body worn camera video clearly shows the position where the suspect is lying on the ground and partially in the water. This video was analyzed in comparison to photographs taken by the Indiana State Police crime scene investigators. Comparison of the videos and photos show that the suspect's handgun was in fact directly under his person in the water when the assisting officers arrived. This is significant evidence that the suspect was retaining control over the handgun as the officers fired shots.

CIVILIAN RECORDED CELL PHONE VIDEO

A civilian was at a laundry mat diagonally across Tipton Street from the Taco Bell, saw police activity just prior to the incident, took his cell phone out, and video recorded the incident which captured the police gunshots being fired. The civilian posted this video on social media. The civilian was cooperative during the investigation and was interviewed by an Indiana State Police detective. The video corroborates the body camera recording of Officer Teltow as to the sequence of the police gunfire, but does not record nearly as well as the police body camera the commands being given by Officer McCrary to the suspect. Due to the drop in elevation in the

ditch in reference to street level, the civilian video did not actually show Officer Teltow and the suspect during the confrontation and Officer McCrary can barely be seen.

INDIANA STATE POLICE SCENE INVESTIGATOR AND LABORATORY

EXAMINATION

An Indiana State Police crime scene investigator processed the scene of the shooting and recovered the evidence on scene. Recovered by the scene investigator was a black Smith and Wesson .40 caliber pistol which was recovered from the water of the small stream where the suspect fell. The pistol was loaded with four (4) live rounds (bullets). Also recovered was some of the suspect's clothing, some miscellaneous items including a glass pipe and two pocketknives. Also recovered were seventeen spent 9mm shell casings. The pistol recovered from the water per standard procedure was placed in a bucket with some of the same water the pistol was recovered in (there are forensic reasons this procedure is followed with firearms evidence recovered from water).

The Indiana State Police Laboratory (hereinafter "ISP Lab") performed forensic DNA and latent fingerprint examinations on the Smith and Wesson .40 caliber pistol the scene investigator recovered from the water of the small stream where the suspect had been lying. Though it was known that the firearm was stored in water taken from where the pistol was recovered from, the pistol was still processed for the presence of DNA or latent fingerprints in order to be thorough in the forensic examinations performed on said pistol. The findings by the ISP Lab regarding the latent fingerprint examination was that no latent prints suitable for comparison purposes were developed or observed. "Not suitable for comparison purposes" is a technical term which essentially means that friction ridge detail (term used for impressions left

by a finger/hand) was lacking in either quantity of detail or quality of a friction ridge impressions to be able to be used by a latent fingerprint examiner to compare to the known fingerprints of individuals.

A DNA analyst with the ISP Lab assigned the forensic DNA work in this investigation determined that there was an “insufficient quantity of DNA for further analysis.” Similar to latent fingerprint examinations, with DNA analysis a certain quantity of DNA is required in order to compare with a person’s DNA. In this investigation, there was not enough DNA present in the samples collected to be able to make any comparisons or further analysis.

The results of the latent fingerprint and DNA analysis is not scientifically surprising given the fact that the pistol had been submerged in water.

The Indiana State Police Lab additionally performed a forensic firearms examination (often incorrectly referred to as “ballistics testing”) on the suspect’s firearm and the officers’ firearms, as well as the recovered projectiles (bullets) and fired cartridge cases. The examination of the suspect’s firearm, that being the black Smith and Wesson .40 caliber pistol, revealed that it was a fully operable and functioning firearm. The examination of Officer McCrary’s and Teltow’s police issued Sig Sauer pistols 9mm pistols confirmed that those were the pistols that fired the fired cartridge cases recovered at the scene. Additionally, the Lab examination determined that the recovered projectiles (bullets) were fired from the officer’s pistols.

IDENTIFICATION OF THE SUSPECT

The suspect involved in the incident of November 1, 2020, was unknown to Officers McCrary and Teltow and neither officer to the best of their knowledge had ever had any prior interaction with the suspect. The officers’ involvement in initially attempting to detain the

suspect was for the investigation of the suspected theft (shoplifting) from Wal-Mart. The officers had no prior knowledge of whether the suspect might have been armed or any information regarding any criminal history of the suspect for they did not know him. It was only in the subsequent investigation by the Indiana State Police that the suspect was positively identified as Jason S. Cline, who also had gone by the names Jason Tabor and Jason Tabor Cline. For purposes of the remainder of this report, he will be referred to as either “Jason Cline” or simply “Cline.”

AUTOPSY FINDINGS

A forensic pathologist performed an autopsy on Jason Cline on November 3, 2020. The results of the autopsy examination of Cline revealed that ten bullets struck Cline.

Of the ten bullets that struck Cline, four of the bullets did not cause any vascular damage or fracture of bones and were just flesh and muscular injuries.

One bullet caused some abdominal bleeding but did not damage any internal organs.

One bullet caused a fractured rib and struck a lung.

One bullet struck a blood vessel and fractured a shoulder blade.

One bullet entered the torso and struck a kidney.

One of the bullets caused a fracture of the bones of the right forearm. It is significant that this forearm injury is consistent with the position the right arm and hand would have been in while holding a handgun.

One bullet did cause significant internal damage by striking the liver, stomach, diaphragm, and a lung. This last noted bullet wound is the only bullet wound the forensic pathologist termed a fatal wound. It should be noted that all gunshot wounds are potentially life

threatening if left untreated by medical professionals, however this incident occurred within a few blocks of Scheck Medical Center.

From a review of the pathologist's findings in conjunction with the Indiana State Police Lab forensic firearms examination, the following facts can be deduced. Of the seventeen total shots fired by Officers McCrary and Teltow, the officers missed on 41% of their shots. Of the shots that struck Cline, all caused injury but only one shot was actually a fatal shot. The significance of these findings corroborate the officer's statements that Cline was still active even after the initial shots were fired.

Additionally, as part of the autopsy, toxicological samples were taken from Cline. Cline tested positive for THC (marijuana) and a significant level of methamphetamine in his blood, a high enough level that it was within the low-end range of potentially fatal amount. Though it is not possible to determine with absolute certainty, the significant level of methamphetamine present in Cline's blood is certainly probative to explaining his aggressive behavior and thought processes in physically struggling with Officer Teltow and drawing a pistol on police officers as well as his initial lack of reaction to the police gunfire.

LAW ON SELF-DEFENSE

Indiana Statutory Law on self-defense as it relates to a law enforcement officer, in relevant portions, is as follows:

35-41-3-3. Use of force relating to arrest or escape.

(b) A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to effect a lawful arrest. However, an officer is justified in using deadly force only if the officer:

(1) Has probable cause to believe that that deadly force is necessary:

(A) To prevent the commission of a forcible felony; or

- (B) To effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and
- (2) Has given a warning, if feasible, to the person against whom the deadly force is to be used.

35-41-3-2. Use of force to protect person or property

(c) A person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However, a person:

- (1) is justified in using deadly force; and
- (2) does not have a duty to retreat;

if the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person, employer, or estate of a person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

From the Indiana Supreme Court case of *Washington v. State*, we get further case law guidance on the issue of self-defense. “In the exercise of the right [of self-defense], a defender may repel force by force reasonably necessary and that he will not be accountable for an error in judgment as to the amount of force necessary, provided he acted honestly...[T]he existence of the danger, the necessity or apparent necessity, as well as the amount of force required to resist the attack can only be determined from the standpoint of the [defender], at the time and under the then existing circumstances.” *Washington*, 997 N.E.2d 342, 346 (Ind. 2013). The Indiana Supreme Court went further to state that there are three (3) requirements for self-defense when deadly force is used, and those requirements are: “(1) The [person claiming self-defense] must have acted without fault; (2) The [person claiming self-defense] has to have had a right to be where [he] was; and (3) The [person claiming self-defense] must have reasonably believed that [he] was in immediate danger of death or serious bodily harm. Once a claim of self-defense is raised, the State bears the burden of disproving the existence of one of these elements beyond a reasonable doubt.” *Washington* at 348.

Information frequently comes up in the investigation of a police or civilian use of force incident from friends/family of a deceased involved that the friend/family members render an opinion on whether the deceased would have, even if having drawn a firearm on an officer (or another person), shot an officer (or civilian). That opinion information is often important to the deceased's friends or family members in trying to understand in their mind(s) the use of force. Such information did get provided to the Indiana State Police Investigators in this present investigation. However, such friend/family opinion information is not legally relevant evidence to a review of the deadly force encounter. Various Indiana Rules of Evidence preclude as relevant or admissible evidence matters where a witness does not have personal knowledge of an event (such as a person cannot testify as to what another person was thinking) or merely rendering an opinion as to what someone would have done. Simply put, a person, whether a law enforcement officer or a civilian, who is confronted with a deadly force threat cannot be expected to essentially read the mind of the person making the threat by way of their actions as to their ultimate intent. A person placed in such a situation can only be expected, as the law requires, to act subjectively and objectively reasonable under the circumstances.

SEYMOUR POLICE DEPARTMENT POLICY ON USE OF FORCE

To determine the lawfulness of the use of force by a law enforcement officer, Indiana statutory and case law is the source of the law used in the analysis of a law enforcement officer's actions. The Seymour Police Department has, as most police departments have, policies governing many aspects of their duties including policies on the use of force, and more specifically the use of deadly force. These policies govern an internal Seymour Police Department review of an officer's actions but do not govern a review by a prosecuting attorney.

A review of the applicable Seymour Police Department policy on use of deadly force was done by the Undersigned. Regarding use of deadly force, Seymour Police Department policy states:

Police Officers are authorized to use deadly force in order to: a. Protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm or; b. prevent or terminate the commission of a forcible felony or; c. prevent the escape of a fleeing felon whom the officer has probable cause to believe will pose significant threat to human life should the escape occur. Before using a firearm, police officers shall identify themselves and state their intent to shoot, where feasible.

The Undersigned finds that Seymour Police Department policy on the use of deadly force comports with statutory and case law applicable to self-defense. Furthermore, the Undersigned finds that Seymour Police Department policy on the use of force was complied with in the incident of November 1, 2020, albeit the ultimate determination of whether police policies were adhered to is within the purview of the Seymour Police Department administrative process. Seymour Police Department policies or procedures other than use of deadly force might be pertinent to an administrative review of this entire incident, however, other policies or procedures were not pertinent to the Undersigned's review of this incident and thus such a review was not conducted.

PROSECUTOR FINDINGS AS TO THE USE OF DEADLY FORCE BY SEYMOUR

POLICE

Jason Cline stole merchandise from the Seymour Wal-Mart store and Seymour Police Officers McCrary and Teltow responded to that incident. Cline ran from Officer Teltow and Officer Teltow reacted to Cline's actions by pursuing Cline in a foot pursuit with Officer McCrary also in pursuit. Cline struggled with Officer Teltow after Officer Teltow caught Cline in the foot pursuit as both Cline and Officer Teltow traversed a riprap embankment into a ditch.

Cline drew a .40 caliber pistol on the officers during the struggle and once again the Officers had to react to Cline's actions. By drawing the handgun, Cline changed the dynamics of the encounter into a deadly force confrontation which up until that point had not been a deadly force encounter. Given Cline's actions in drawing the handgun and the close proximity of the officers to Cline (Officer Teltow still physically wrestling with Cline), Cline's actions eliminated the possibility of "de-escalation." "De-escalation" is a term that has frequently been used of late, essentially meaning the desire of police to attempt to calm down a situation instead of escalating an encounter with a subject to reduce the likelihood of the need to use a higher level of force, including the use of deadly force. However, de-escalation was not an option in the situation involving Officers McCrary and Teltow and Jason Cline. The officers, for lack of a better term, were sitting ducks to Cline firing shots at them had deadly force not been used upon Cline to stop his threat. The evidence clearly shows that it was Cline who turned this incident into a deadly force encounter, not the officers. If police have the advantage of cover to reasonably protect themselves and citizens from harm from a suspect and time is not of the essence, then de-escalation is a possibility, and the police should make reasonable attempts to de-escalate a situation. However, where a suspect has drawn a firearm on officers, police do not have cover and are in imminent danger from a suspect's use of deadly force, de-escalation is not feasible. Additionally, it will not be expected that a police officer engage a firearm armed suspect with a taser. To be clear, a police officer does not have to be shot at first before police are justified in using deadly force. In the situation at hand, Officer Teltow did make an attempt to disarm Cline of his handgun by striking at Cline's right arm (handgun was in Cline's right hand) prior to police shots being fired at Cline, however, this attempt was unsuccessful in disarming Cline. This attempted disarm did however give Officer McCrary enough time to transition from a taser

to his handgun and Officer Teltow's actions may well have saved the life of himself and Officer McCrary. Officer McCrary's deployment of deadly force upon Cline bringing back up the handgun toward the officers may also have saved the life of himself and Officer Teltow.

Given the above situation, Officer McCrary was justified in using deadly force against Cline. After the initial use of deadly force, the use of deadly force paused as Officers McCrary and Teltow reassessed the situation to determine if Cline's deadly force threat was still present or whether the force used had successfully neutralized the threat posed by Cline. Cline was still armed and still a threat the second time both officers used deadly force upon Cline. As can be heard on Officer Teltow's body camera as well as the citizen cell phone video, the near simultaneous fire of Officer McCrary and Teltow is indicative of both officers seeing the deadly force threat at the same time. Cline was not shot by police because he shoplifted, he was shot because he drew and pointed a loaded and fully functioning handgun on the officers as they were trying to apprehend him.

Considering all available evidence, it is clear pursuant to Indiana Law that the use of deadly force by Officers McCrary and Teltow of the Seymour Police Department was justifiable in defense of themselves and each other given the actual deadly force threat posed by Jason Cline and there is no criminal liability on the part of Officers McCrary and Teltow.

OFFICER STATEMENTS

A police officer, the same as a civilian, has the constitutional right to remain silent and not speak with investigators regarding an incident being investigated. However, both Officers McCrary and Teltow waived their rights and gave a statement to Indiana State Police detectives and fully cooperated with Indiana State Police detectives in the investigation of this incident.

OFFICER TRAINING

At the time of this incident, Officers McCrary and Teltow were up to date in their required training.

MOTIVE FOR JASON CLINE'S ACTIONS

People may ask why Jason Cline would have risked an armed confrontation with police officers over a shoplifting.

The term motive is most often used to explain the reason why someone would have taken the action that they did. We will never know with absolute certainty Cline's motive, but there is a substantial motive, based upon the evidence, that might well establish the reason that Cline drew the handgun on the police officers which was to avoid going back to prison. Note that in the below analysis, the Undersigned only keyed on issues regarding Cline's criminal history that were found to be particularly relevant to his circumstances and actions on November 1, 2020. Other aspects of Cline's criminal history were not found to be relevant to the incident of November 1, 2020 and will not be addressed in this Report.

Cline qualified under Indiana law as what is termed "Serious Violent Felon" [hereinafter "SVF"]. The SVF reference is the statutory term used by the Indiana Legislature to indicate those persons, because of the type of prior felony conviction or convictions said individual has, qualify for that status. It is those persons who qualify as SVF status that are prohibited by Indiana law from possessing any firearm. Should a person with SVF status possess a firearm, said person will face Indiana's toughest penalties for an illegal possession of a firearm. Cline qualified as a SVF due to a prior Armed Robbery conviction. The crime of Unlawful Possession

of a Firearm by a Serious Violent Felon is a Level 4 Felony which carries a sentence range of a minimum of two (2) years up to a maximum of twelve (12) years in prison.

Additionally, Cline qualified for the Habitual Offender Enhancement. The Habitual Offender Enhancement is a sentence enhancement that may be sought by a prosecutor should a defendant qualify for that Enhancement by having two (2) or three (3) prior unrelated Felony convictions (whether two (2) or three (3) prior unrelated Felony convictions are necessary depends on the Class/Level of the prior convictions, and in the case of Cline two (2) prior unrelated Felony convictions qualified him for the Habitual Offender Enhancement). Cline qualified for the Habitual Offender Enhancement due to having a prior conviction for Possession of a Precursor and an additional Armed Robbery conviction. The Habitual Offender Enhancement filed in an Unlawful Possession of a Firearm by a Serious Violent Felon, Level 4 Felony prosecution can add an additional six (6) to twenty (20) years in prison on top of the standard sentence range, making the total maximum sentence for a conviction of Unlawful Possession of a Firearm by a Serious Violent Felon and the Habitual Offender Enhancement thirty-two (32) years in prison. It is most certainly not the sentence range for a shoplifting (theft) that Cline would have taken drastic action to avoid, but it was the significant prison sentence Cline faced if the police found him in possession of a firearm.

It should be noted that in the State Police Investigation a friend of Cline's, who will be identified in this Report a C.A., informed the investigators that Cline had himself previously told C.A. that he would commit "suicide by cop" before going back to prison again. "Suicide by cop" is a term used to describe a situation wherein instead of an individual killing himself, he engages the police in a deadly force encounter with the goal of the police shooting the individual with the intent to cause the person's own death.

As a final possible motive, the Smith and Wesson .40 caliber pistol in Cline's possession was reported stolen by a relative of Cline's a few months prior to the incident of November 1, 2020, and Cline was listed as the suspect in the theft of the pistol. The theft of the pistol by Cline would be a Level 6 Felony offense and Cline would have faced an additional period of incarceration upon a conviction for that offense in addition to an SVF conviction.

Whether Cline's motive was to shoot Officer McCrary and Officer Teltow to continue his flight to avoid going back to prison, or if it was to commit "suicide by cop" if Cline believed he was caught and would not have the ability to kill the officers and escape, the end result caused by Cline's actions was the same being the officers having to defend themselves.

NOTE ON WITNESS REFERENCES IN THIS REPORT

Throughout this report the Undersigned has referred any civilian witnesses by their initials. When an investigation results in criminal charges being filed against a person, the names of potential witnesses will be listed on the Information (the charging document commonly referred to as "the charges"). Given that no criminal charges will be filed witnesses were referred to by their initials to respect their privacy.

Respectfully,



Jeffrey A. Chalfant
Prosecutor