



# DANE COUNTY DISTRICT ATTORNEY ISMAEL R. OZANNE



## PRESS RELEASE

Date: 02-03-2023

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## NO CRIMINAL LIABILITY FOR DANE COUNTY SHERIFF'S DEPUTY INVOLVED IN SHOOTING INCIDENT ON 10-23-2022

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After briefings by investigators, an inspection of the scene shortly after the incident, a review of summary reports, diagrams, and other evidence, the Dane County District Attorney's Office concluded Friday, February 3, 2023, that there is no potential criminal court liability for the Dane County Sheriff's deputy involved in the shooting incident in the Village of Oregon, Dane County, Wisconsin, on October 23, 2022.

On October 23, 2022, at approximately 11:13am, 911 dispatch received a call in which the caller indicated a male Hispanic who he knew as Carlos had held a gun to his wife's head in his father's house in the Village of Oregon, Dane County, Wisconsin. The caller indicated Carlos had fled the house on foot in the direction of Mulligan's sports bar. Deputies arrived at the residence and spoke with the caller's wife who indicated she had entered the home to use the bathroom and was confronted by a male Hispanic who she knew as Carlos. Carlos shoved her causing her to fall and put a handgun to her head. She described the gun as having a black barrel with a wooden handle. She immediately screamed and begged Carlos not to kill her. Carlos then ran out of the residence. She described Carlos as approximately 21 years of age with short dark hair and wearing a black long sleeved shirt with dark colored jeans. She said she had met Carlos before at a residence in the Village of Oregon, Wisconsin, which was the residence of her father-in-law's girlfriend's house. When shown a Dane County Sheriff's Office booking photo of Jose Carlos Jimenez, she indicated this was the individual who she knows as Carlos and who pointed the gun at her.

After speaking with the victim deputies then assisted with the search by taking up positions around the perimeter of the area being searched. A deputy traveled to an area overlooking a large green space just south of a barn believed to be a place where Mr. Jimenez had been staying. The deputy was in this position for approximately ten minutes when he observed a male Hispanic subject appear from the west of his location wearing dark pants and a white colored T-shirt with red and blue colors. The deputy noted this individual was not wearing a long sleeved dark shirt as the victim had described, but had a dark colored garment wrapped over his right forearm and hand. The deputy recognized the subject as the individual that the victim had identified as Jose Carlos Jimenez.

The deputy exited his squad and drew his weapon pointing it in the direction of Mr. Jimenez while shouting, "Police, stop." Mr. Jimenez then turned toward the deputy and as he did so the garment covering his right hand dropped to the ground. The deputy saw what he believed was a gold and silver colored cylinder or tubular object in Mr. Jimenez's right hand which he believed was a gun. The deputy then saw the sunlight flickering off the handgun's barrel as Mr. Jimenez

raised the gun upwards in the direction of the deputy. The deputy fired his handgun in the direction of Mr. Jimenez for what he believed was four or five times. The deputy saw Mr. Jimenez drop to the ground and roll onto his stomach. At this time the deputy kept directing Mr. Jimenez to show his hands. The deputy could not see where the handgun was so he maintained distance until assistance arrived. Responding law enforcement arrived and began conducting medical assistance immediately. Mr. Jimenez was pronounced deceased at the scene. A loaded black .22 caliber Ruger MK II was located on the ground near Mr. Jimenez's location.

"A handgun is a dangerous weapon and poses a grave danger of bodily harm and/or death to an individual. A person who points a firearm at police does pose a threat of great bodily harm and/or death to the officer," said Dane District Attorney Ismael Ozanne. "Responding to that threat with deadly force is permitted under the law."

Relevant evidence includes statements of officers at the scene, scene diagrams, evidence collection, which are consistent with each other.

Under Wisconsin law, which applies equally to members of law enforcement and to those who are not, any person may use deadly force to respond to a genuine fear of deadly force to that person or any other person. In this case, the deputy was compelled to use deadly force when confronted by a person armed with a handgun pointed toward him.

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The role of the District Attorney's Office in a case of this type is limited to a review of the facts to determine whether further investigation is merited and, after all available evidence is obtained, whether criminal charges could be merited for any individual who has survived the incident. Police executives and supervisors have the exclusive responsibility of establishing appropriate training and protocols for use in response to crisis events, and of selecting from among the tactical options available to police in responding to particular events.

Now with the passage of Wis. Stat. 175.47 (Act 348) there is also a question of compliance with said Statute. This critical incident involved a Dane County Sheriff's deputy who was assisting with the search for an individual known to be armed and when located produced a handgun from their person and pointed it in the direction of the deputy.

This investigation was conducted by the Wisconsin Department of Justice Division of Criminal Investigations (DCI) and is in compliance with the statute. In the case of a death caused by an officer, the statute requires that at least two investigators from outside agencies or agencies not involved in the critical incident/Officer Involved Shooting (OIS) lead the investigation:

*(3)(a) Each policy under sub. (2) must require an investigation conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.*

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