



# DANE COUNTY DISTRICT ATTORNEY ISMAEL R. OZANNE



**PRESS RELEASE**  
**For Immediate Release**

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## **NO CRIMINAL LIABILITY FOR LAW ENFORCEMENT OFFICER INVOLVED IN DEATH OF ELLIOT JOHNSON ON SEPTEMBER 17, 2020**

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After briefings by investigators, the ME's Office, an inspection of the scene shortly after the incident, a review of summary reports, diagrams, body camera, squad camera, and other video evidence, the Dane County District Attorney's Office concluded on Friday, November 13, 2020, that there is no potential criminal court liability for the City of Monona Police Officer involved in the death of Mr. Elliot Johnson in the City of Madison on September 17, 2020.

In this incident, an officer with the City of Monona Police Department was conducting traffic enforcement on the Beltline HWY 12/18. At approximately 11pm on September 17, 2020, the officer was positioned east of the Monona Dr. exit when he observed a vehicle in the west bound lanes traveling in excess of 80 miles an hour. The vehicle was a gray Ford Focus driven by Mr. Elliot Johnson. The officer pursued the vehicle. The vehicle exited the Beltline at the Broadway exit from the center lane cutting across the path of an SUV traveling in the far right lane. The officer exited and was communicating with dispatch. The Ford Focus ran through the stop sign after exiting and then is captured by the street camera at Broadway and Fraser. The Ford Focus was seen turning left on to Hoboken Rd. at 11:01:19pm, followed by the squad with lights activated at 11:01:24pm. The Ford Focus reappeared on the street camera running another stop sign and turning right on to Broadway from Fayette Ave. at 11:01:48pm, followed by squad at 11:01:53pm.

The Ford Focus continued onto South Towne Dr. and was captured on camera at the Department of Corrections Probation and Parole Office traveling at a high rate of speed followed by the squad. The Ford Focus and squad were also captured on a camera at the Madison Metropolitan Sewerage District (MMSD) headed toward Moorland Rd. Just after passing the entrance to the MMSD, the Ford Focus lost control around the curve and left the roadway. The Ford Focus collided with a utility pole, shearing the pole off as it came to rest on the fence of MMSD with the pole resting on the vehicle at 11:02:50pm.

The officer's squad video captured the Ford Focus on the Beltline and as it was pursued until the time the squad came to a stop parallel to the crash. The squad video also

captured the officer once he exited the squad and the officer was seen on the squad video standing in front of the squad with his duty sidearm pointed in the direction of the crashed vehicle. The officer was seen holstering his sidearm as he removed his Taser just before moving off screen of the squad camera.

The officer's body camera footage showed him exiting the squad and drawing his sidearm as he was giving directions to the sole occupant of the Ford Focus to "show me your hands." The driver of the vehicle was seen moving through the vehicle exiting out of the front passenger side door. The officer continued to direct the driver to show him his hands. The driver stood up outside of the vehicle and was told repeatedly to show his hands. For a brief moment the driver appeared to wipe his face with one hand and was not complying with the officer's directions. The driver then began to reenter the vehicle.

At this time the officer holstered his firearm and removed his Taser. The officer warned that he was going to use the Taser if the driver reentered the vehicle. The officer moved towards the vehicle with his Taser continuing to give verbal commands. The driver continued to climb back into the vehicle and the officer deployed the Taser. The Taser struck the driver causing the driver to lay across the front seats with his feet outside the front passenger door. The officer continued to direct the driver to show his hands.

The view into the vehicle from the passenger side was obstructed. The side curtain airbags had deployed due to the crash and hung down covering most of the windows. The officer continued to direct the driver to show his hands as he indicated he was going to deploy the Taser again. The officer moved closer to the vehicle. The sound of the Taser was heard on the video a second time, but the reaction of Mr. Johnson is not as it was when he was originally hit with the Taser. The officer moved up to the side of the vehicle and attempted to use the Taser through contact with Mr. Johnson with no clear affect. As the officer was at the side of the car his left hand was seen touching the side of the vehicle and the Taser was seen in his right hand. A pop was heard and the officer dropped the Taser and was running back to his squad for cover as he again drew his sidearm. He took cover behind the squad and radioed dispatch that he heard a gunshot, which he believed the driver shot.

Other officers arrived and law enforcement moved toward the vehicle. Mr. Johnson was taken out of the vehicle through the passenger side door and lifesaving measures were performed while paramedics were called to the scene.

A subsequent search of the Ford Focus by the Wisconsin State Crime Lab personnel located a loaded 9 mm handgun on the floor of the passenger side of the vehicle. A fired 9 mm cartridge case was also found. An exit hole was located in the roof of the vehicle on the passenger side. A trajectory rod was placed through the roof of the vehicle indicating the trajectory originated in the front seat area and passed upward through the headliner of the roof on the passenger side.

The autopsy revealed Mr. Johnson suffered a gunshot wound to the head which traveled from left to right and exited his right side. This wound pattern and the trajectory of the bullet from within the car are consistent with Mr. Johnson's location and the hole in the roof of the vehicle documented by the Wisconsin State Crime Lab.

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 officer used less than lethal force, a Taser. The officer could not see clearly into the vehicle as his view was obstructed by the deployed side curtain air bags. The officer attempted to utilize the Taser a second time with questionable results. A gunshot came from within the vehicle in which the sole occupant was the driver, Mr. Johnson. It is clear the officer could not see Mr. Johnson's hands as he continued to direct Mr. Johnson to show his hands when the firearm was discharged. It is also clear the officer was not using deadly force and the injuries which caused Mr. Johnson's death could only have been caused by Mr. Johnson.

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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 there is also a question of compliance with said Statute. This critical incident involved a City of Monona Police Officer trying to contact a reckless driver who subsequently lost control of his vehicle and crashed.

This investigation was conducted by the Wisconsin Department of Justice's Division of Criminal Investigation (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 Incident (OII) 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.*

This death was not caused by an officer's actions but the proximity of the officer to the incident and involvement in the pursuit of the vehicle caused the Monona Police Department to request outside agency involvement in this investigation.

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