

PRELIMINARY REPORT  
OF THE STATE'S ATTORNEY

May 19, 2021  
CHAMPAIGN POLICE DEPARTMENT  
OFFICER INVOLVED FATAL SHOOTING

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## **Summary Of The Preliminary Investigation**

The State's Attorney's role in an officer-involved shooting is to review the evidence and determine if the officers acted consistently with Illinois law with regards to use of deadly force and to determine if there were any violations of Illinois criminal law. With regards to the events of May 19, 2021, Criminal Division Chief Troy Lozar and I have reviewed the evidence gathered in the preliminary investigation conducted by the Illinois State Police and are prepared to release a preliminary opinion that Officer Jeffrey Creel's use of deadly force was legally justified and appropriate. Further, Darion Lafayette was in violation of Illinois criminal law in that he illegally possessed a firearm and caused the death of Officer Chris Oberheim.

## **Review Of Evidence**

It is important first to note that the Illinois State Police investigation is ongoing. At this time, we have received and reviewed sufficient evidence to present a preliminary opinion on the above outlined issues. Like any investigation, we are aware of additional evidence that will come in and will be considered. For example, we expect final autopsy results, including toxicology results, and Illinois State Police laboratory analysis of the firearms, shell casings, and bullets to be completed and available in the future. It is also possible, as in any investigation, that additional witnesses could come forward and provide relevant information. However, we do not expect any additional evidence or information to affect or alter our preliminary opinions.

During this investigation, we have reviewed the following evidence:

1. Surveillance video from Town Center Apartments. We reviewed the original surveillance video at Town Center Apartments. We received a copy of that video and reviewed the copy. That copy was lightened and zoomed in and overlaid with Officer Creel and Officer Oberheim's body camera video to enhance visibility of the events at issue. No changes were made to the recorded events.
2. 911 call and radio traffic relevant to the events
3. Our own walk-through of the scene
4. Photographs of the scene
5. Champaign Police Department body camera video, including body camera video from Officer Oberheim, Officer Creel, and first responding officers
6. Reports written by first responding officers and investigating officers regarding their observations and interviews
7. Report written by Officer Jeffrey Creel
8. Preliminary autopsy results for Officer Christopher Oberheim and Darion Lafayette
9. Professional and law enforcement history of involved individuals
10. Results of search warrants executed at Darion Lafayette's residence

Based on our review of the evidence, we can provide the following preliminary timeline and summary of the events of May 19, 2021.

At approximately 3:24 a.m., METCAD received a 911 call from an individual reporting concerns that a female was being physically abused in apartment 303, 2419 N. Neil Street, Champaign, Illinois,

Town Center Apartments. In response to that call, Champaign Police Department Officers Creel and Oberheim were dispatched to the apartment complex.

Town Center Apartments is a complex made up of 3 story apartment buildings. Officer Creel and Officer Oberheim arrived separately in Champaign PD squad cars at 3:32 a.m., parked around the corner, and approached 2419 on foot. The parking lot was lit by overhead lighting. Both officers were in uniform and employed flashlights. The officers walked together towards 2419. Officer Creel observed a person exit 2419 and get in a vehicle parked directly in front of the apartment building. Officer Creel reported he attempted to radio METCAD to get information on the vehicle but due to radio traffic the radio was busy. The officers walked to the sidewalk of the building and approached the vehicle from behind, between the vehicle and a car parked in the adjacent parking spot. The vehicle was parked facing out and the driver's side door was ajar. The individual seated in the driver's seat was Darion Lafayette. Lafayette's left foot was out of the vehicle.

Officer Creel was in front of Officer Oberheim as they approached between the two vehicles. Officer Oberheim's body camera video captured Officer Creel from behind and shows that Officer Creel's firearm was in his holster on the right side of his body. Officer Creel said, "What's up man? Champaign Police. How are you?"

Officer Creel's body camera video shows that Lafayette's left hand was visible holding a cell phone and his right hand was not visible, in the passenger area of the car. Officer Creel said, "Put your hands where I can see them." Officer Creel said, "What are you doing?" as Lafayette began leaning out of the vehicle. Lafayette said, "I'm in my car, sir." As Officer Creel said, "Drop your hands," Lafayette quickly exited the vehicle and came into direct physical contact with Officer Creel. Lafayette said, "I ain't got nothin', man." It is worth noting the speed at which these events occurred; From the time Officer Creel first spoke to Lafayette to the time Lafayette emerged from his vehicle with a firearm was about 7.5 seconds. Officer Creel and Lafayette engaged in a physical struggle. Officer Creel reported that he tried to control Lafayette by wrapping him in a bearhug, but Lafayette broke free and began firing a gun that he held in his right hand. Body camera video shows Officer Oberheim reach in and engage in the struggle. Town Center security video shows the struggle. Multiple gunshots/ashes can be seen on the Town Center security video and both officers' body cameras record the sound of multiple gunshots. Officer Oberheim fell backwards to the ground at the rear of Lafayette's vehicle, consistent with being struck by the gunfire. Officer Creel's body camera was dislodged from his chest during the struggle and landed facing down under a car as the shots continued. Officer Oberheim's body camera fell from his body to the ground pointing upwards when he collapsed. Both the body cameras continued to capture audio, and the Town Center Security camera continued to capture images of these events.

Officer Creel reported that Lafayette began shooting downwards right at Officer Creel. Officer Creel reported that he was forced to the ground when he felt two gunshots hit his right upper chest. Officer Creel reported the next thing he remembered was that he was able to get to his feet and move to the rear of the vehicle, where he observed Officer Oberheim laying on the sidewalk with a severe gunshot wound to his head, and Darion Lafayette on his feet next to Officer Oberheim. Officer Creel reported "fearing that Darion would again try to shoot and kill me and Officer Oberheim I immediately fired my sidearm numerous times into Darion until I felt we were safe." Security camera video shows Lafayette on the sidewalk upright in the area where Officer Oberheim fell, and then shows Officer Creel

approach from between the vehicles. Body cameras recorded the sound of 4 final gunshots, in two rounds of two, whereupon Lafayette fell to the ground.

Officer Creel immediately called for emergency assistance. According to dispatch records, CFD personnel and Pro Ambulance paramedics were dispatched at 3:37 a.m. At 3:42 a.m., CFD tended to Officer Oberheim and Lafayette. At 3:52 a.m., paramedics connected leads to Lafayette and observed no signs of life. At 3:56 a.m., paramedics advised officers on the scene that Lafayette was deceased. The Champaign County Coroner's Office was notified. Pro Ambulance paramedics removed Officer Oberheim from the scene and transported him to Carle Hospital where he succumbed to his injuries.

Officer Oberheim was struck three times: Once in the torso, once in the neck and once in the head, with the entrance wound at the left posterior side of the skull. Preliminary autopsy results indicate that the cause of death was the gunshot wound to the head.

Lafayette was struck three times: Once in the right back, penetrating to the left lower lung, and twice in the head, with the entrance wounds to the front of the skull. Preliminary autopsy results indicate that the cause of death was gunshot wounds to the head and chest.

Officer Creel was struck three times: Once in the left arm and twice in the chest. He was wearing body armor.

Illinois State Police Crime Scene Technicians collected 11 shell casings from the scene. Two shell casings were Speer brand, consistent with ammunition used by Officer Creel. Nine shell casings were Sellier and Bellot brand.

Next to Lafayette's body officers found a 9mm Glock handgun. The slide was locked back and the magazine was empty, consistent with it having been completely discharged of ammunition.

Officer Oberheim's handgun was in his holster on his right hip and had not been removed during the altercation.

Investigators examined Officer Creel's handgun. Based on the remaining bullet count it appears he fired four times. Two of the shell casings were not located.

Officers located two minor children in Lafayette's apartment, #303, and an adult female who reported having been in the apartment with Lafayette just prior to the 911 call. The adult female was uncooperative. Review of court records confirms that the adult female was the named victim and Lafayette was the defendant in a 2019 Aggravated Domestic Battery matter. The Department of Children and Family Services was notified on May 19 and a child welfare case is currently pending.

Investigators obtained a search warrant for the apartment. During execution of the search warrant in a dresser drawer in Lafayette's bedroom officers found two magazines loaded with Sellier and Bellot brand ammunition. Officers found a gun case for a Glock firearm in the closet.

Review of Lafayette's criminal history indicates that he has a prior conviction in 2017 for Violation of Bail Bond, a class A misdemeanor, in 2018 for Unlawful Possession of Methamphetamine, a class 3 felony, and in 2019 for Aggravated Domestic Battery, a class 2 felony, an offense for which he was serving a sentence of 24 months probation. Based on his two prior felony convictions he could not legally possess a firearm or firearm ammunition.

## Analysis

1. Was it legally appropriate for Officer Creel and Officer Oberheim to approach Lafayette, engage in contact with him and order him to show his hands?

An officer investigating an offense is legally allowed to approach any individual and request assistance or inquire if that individual is a witness or involved subject. *Florida v. Royer*, 460 US 491 (1983). The officers' initial approach to Lafayette fell within this category of investigative inquiry. The officers were responding to a domestic battery call and saw Lafayette leaving the apartment building in question and sitting in his car directly in front of the location to which they have been dispatched. It was appropriate for the officers to attempt to determine if he was the reporting party, a witness, the suspect, or uninvolved. Moreover, the officers reasonably would have potential concerns for their own safety given the time of day, the lack of lighting, and the nature of the call. These concerns further justify their investigative approach.

Under these circumstances, once Officer Creel engaged in conversation with Lafayette and could not see Lafayette's right hand, he was justified in ordering Lafayette to show his hands for officer safety purposes. *US v. DeCastro*, 905 F3d 676 (3d Circuit 2018).

2. Was Officer Creel's use of deadly force legally justified?

Under Illinois law in effect on May 19, 2021, a peace officer is justified in using force likely to cause death or great bodily harm:

only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

- (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and
- (2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay. 720 ILCS 5/7-5(a)

Officer Creel's use of deadly force was legally justified under all the above propositions. Officer Creel was faced with an individual who had repeatedly fired a handgun, striking Officer Creel and gravely injuring Officer Oberheim. That individual was still armed and appeared capable of inflicting great bodily harm or death to Officer Creel or to another. Officer Creel's belief that deadly force was necessary to stop Lafayette from inflicting further injury to Officer Oberheim, to Officer Creel or to anyone else in the area was reasonable and consistent with his responsibility as a peace officer given the entirety of the circumstances he faced in the early morning hours of May 19, 2021.