

**Case Report: Joseph Biegert Death - 04/22/2015**

**Summary of Events**

On Tuesday, February 24, 2015 at 7:31pm Green Bay Police Officers Matthew Dunn and Brian Krueger were sent to 1511 Plymouth Lane, Apartment E, in Green Bay, for the report of a suicidal subject who was identified as Joseph Biegert. Upon arrival the officers were admitted to the apartment by Biegert and the officers observed numerous pill bottles and pills on the floor around Biegert. Upon hearing a noise in the rear of the apartment, Officer Dunn conducted a safety check of the bedroom, bathroom and rear closet of the apartment for additional subjects and found none.

The officers then questioned Biegert about taking pills and Biegert admitted to same. In preparation for turning Biegert over to rescue personnel, the officers then attempted to frisk Biegert for weapons. Biegert began to resist the officers when Officer Dunn attempted to frisk Biegert's front beltline. As the officers attempted to gain control of Biegert, Biegert began to drag the officers into the kitchen area of the apartment.

Officer Dunn put his leg in front of Biegert in an attempt to stop his progress, at which time Biegert fell on top of Officer Dunn. Officers Dunn and Krueger attempted to deploy their Tasers without effect on Biegert. During the struggle, Officer Krueger was struck by Officer Dunn's Taser. Officer Krueger deployed several fist strikes to Biegert, which also were ineffective.

Biegert obtained a knife with a black handle and an eight-inch blade from the kitchen counter and began to attempt to stab/cut Officer Dunn. Officer Dunn was able to deflect most of the attacks but was stabbed in the right bicep. Officer Dunn advised Officer Krueger that he, Officer Dunn, had been stabbed.

Officer Dunn then drew his department-issued sidearm and fired five shots at Biegert in order to stop Biegert's attack on Officer Dunn. Upon hearing that Officer Dunn had been stabbed, Officer Krueger drew his department-issued pistol and, when Biegert turned towards Officer Krueger, still holding a knife, Officer Krueger fired four shots at Biegert in order to stop Biegert's attack on Officer Krueger.

Biegert then fell to the floor, still holding the knife in his right hand. Both officers continued to cover Biegert with their firearms. Officer Krueger directed Officer Dunn to move around Biegert and exit the apartment in order to get medical treatment for his wound. Green Bay Police Officer Meisner then arrived and took a position behind Officer Krueger, who was maintaining cover on Biegert, who still held the knife.

Officer Dunn exited the apartment and, as additional officers arrived, Officer Krueger moved to the rear of the "stack" of officers covering Biegert. Officer Waln then moved to the other side of Biegert and knocked the knife out of Biegert's hand with his, Officer Waln's, baton.

Medical personnel were allowed to enter the apartment and they determined that Biegert was deceased. Officers Dunn and Krueger were transported to the hospital and treated for their injuries, including a two-inch cut to Officer Dunn's right bicep.

### **Neighborhood Canvas Interviews**

R.M. is a tenant in the same building as Joseph Biegert. R.M. was home when the police made contact with Biegert. R.M. was playing video games on his computer in his bedroom and was wearing noise-cancelling headphones. At 7:40-7:45 R.M. heard loud noises in Biegert's apartment and he removed his headphones. R.M. discounted the noises and replaced his headphones. Within a few minutes R.M. again heard loud noises and again took off his headphones. R.M. then heard screams and what sounded like an argument. R.M. then heard what he believed to be three gunshots, then a delay, then two more gunshots.

R.M. thought that the people who he believed were arguing upstairs had shot each other so he, R.M., turned off the lights in his apartment and opened his blinds so that the police could see into his apartment. R.M. also locked the door to his apartment. At this time R.M. did not know that the police were in the building or were involved. The police made contact with R.M. a short time later and he allowed them to enter his apartment to search for bullet holes. The police and R.M. observed a hole in the ceiling of the kitchen of R.M.'s apartment and another in the wall of the kitchen. R.M. then left his apartment and stayed with a friend until he was contacted by law enforcement and asked to return to give a statement. R.M. did not know and had never had contact with Joseph Biegert.

J.N. is another tenant who lives in the same building as Joseph Biegert. J.N. was home when the police responded to Biegert's apartment and said that he heard people going upstairs then he heard what he described as a scuffle. J.N. then heard what he thought were seven gunshots, then a pause, then two more gunshots. J.N. then heard a male voice speaking but he couldn't hear what was said. J.N. then saw red and blue lights so he woke his girlfriend who was sleeping at the time of the event. Police Officers came to J.N.'s apartment door and advised that the situation was under control. J.N. then allowed the officers to enter his apartment and search for bullet holes but they found none. J.N. advised that he had only lived in the building for three weeks prior to this evening and did not know any of the other tenants.

### **Interviews of Family of Joseph Biegert**

Brian Biegert is Joseph Biegert's younger brother and advised that Joseph lives alone and spends most of his time in his apartment playing Pokémon on his Nintendo and playing movies. Brian said that Joseph only left his apartment to get food. According to Brian, Joseph's rent was paid in the most part by the state, and their mother provided an additional \$50 each month. Brian described Joseph as being antisocial and diagnosed as having Bipolar Disorder, ADD, Depression, and having a learning disability. Brian acknowledged Joseph's use in the past of

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marijuana and alcohol but said that Joseph was only using prescription drugs at the time of his death. Brian believed Joseph either took his medication too often or skipped using them all together when he should have been taking them. Joseph would sometimes take the pills and have episodes where he would get very paranoid and Joseph would have to be taken to the Brown County Mental Health Center.

Brian stated that he had not seen his brother for about one and one half to two weeks because Joseph said some unfriendly things to him. Brian intentionally did not answer calls from Joseph during this time because he was still mad at Joseph. The day prior to this incident (02/23/15) Brian answered a call from his brother and they began talking again. They had been making plans for Brian to stop by and visit with Joseph but it did not occur prior to this date (02/24/15).

During the last two days (02/23/15 and 02/24/15) that Brian was talking to Joseph they had talked on the phone numerous times. At approximately 12:00pm (noon) Brian went to his mother's house to visit with his mother. He stayed at his mother's house for the rest of the evening.

At 6:13pm Joseph called Brian and started talking about someone flashing a light into his apartment window. Joseph accused Brian of talking to two of their old friends who Joseph thought were now stalking him, Joseph. Brian continued to tell Joseph that he had not and was really getting concerned about his brother's behavior. Brian was concerned about Joseph and told his mother (Toni Biegert) that Joseph wasn't acting right and was acting very paranoid. Brian asked his mother what medication that he was on and that he needed some kind of change.

At 6:31pm Joseph called Brian agains and started talking about people who were after him. Joseph continued to argue with Brian about talking to Fred and Anthony. Brian could not calm Joseph and didn't want to continually get yelled at by Joseph so Brian hung up on him. After hanging up on Joseph, Brian told his mother that she should talk to him and try to calm him down. Brian stated that his mother called Joseph and Joseph told his mother that he didn't want to live anymore. He told her that he was sorry for accusing Brian. Joseph told her that he was thinking about taking the whole bottle of Wellbutrin. She told Joseph that he should call the crisis hotline and they would help him. She felt that she convinced him to call the hotline and hung up so he could call.

Brian stated that his mother waited approximately ten minutes and called Joseph back to see if he had called the crisis hotline. Joseph told his mother that he did call and they told him that he should stop thinking those thoughts and just go to bed and sleep on it. She talked to Joseph for a few more minutes and ended the phone call. She told Brian that she didn't believe that Joseph called the hotline because they wouldn't tell him that. She then decided to call the Green Bay Police Department to check on him to see if he did overdose and to get him the help that he needed.

Brian stated that approximately one hour after his mother called the police to check on Joseph she got a phone call from a member of the Green Bay Police Department who told her that they

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needed to come over to her house and talk to her. Brian decided to stay at his mother's house to wait for the police department to come over because they were all worried what may have happened to cause the police to need to visit the house.

Brian was present at his mother's house at 9:50pm (2-24-15) when the Brown County Assistant Medical Examiner notified his mother, Toni Biegert, that Joseph had died.

Toni Biegert (Joseph's mother) stated that, in regard to Joseph's medical and mental conditions, Joseph was diagnosed with Attention Deficit Disorder (ADD) and depression. Joseph was treated by a doctor one time for Bipolar Disorder but it was never determined that he truly was suffering from this condition. Toni Biegert described attempted overdoses and misuse of his prescription medicine by Joseph.

In a recent incident Joseph had taken higher levels than his prescribed amount of Vyvanse that caused Joseph to hallucinate and the Green Bay Police Department were called and took him to the Brown County Crisis Center for treatment. According to Toni Biegert, this occurred in November or December of 2014 (before Christmas).

Toni stated that she knows of two overdoses that Joseph was treated for in 2014. He may have previously overdosed three times but she states she remembers only two times for sure. For those overdose incidents Joseph went to St. Vincent's Hospital. Joseph was found to have higher levels of prescribed medication in his system but not enough to overdose. Toni stated that the Brown County Crisis Center prescribed Vyvanse for Joseph but, after the last higher level of medication incident, doctors put Joseph on his new prescription of Wellbutrin, which is an anti-depressant.

Toni last saw Joseph on 02/17/15 in the afternoon when she took him to a court case to deal with a pending unpaid-rent court action. On an unknown date after 02/17/15 but prior to Sunday, 02/22/15, Toni talked to Joseph over the phone and Joseph said he was going crazy always hanging out in his apartment alone. Joseph said that lately he was having very bad headaches and was tired all the time.

On Tuesday, 02/24/2015 shortly after 6:20pm, Toni's son, Brian, who was at her house, told her that Joseph was not acting right while they were talking on the phone and Joseph was acting very paranoid. Brian told Toni that Joseph said people are flashing lights in the apartment. Toni told Brian that it was probably a way for Joseph to get Brian to go over and pick him up. Brian said, "He's not on those meds anymore so why is he freaking out?" Toni thought Joseph's actions on the phone were to get Brian to come over and pick him up so she wasn't too concerned at this time.

At 7:01pm Joseph called Toni and he told her that people were out to get him again. Toni spoke with Joseph for about 15 minutes and she asked him when they hung up to call the Hotline Center to get the help that he needs. He said that he would call to talk to someone.

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At 7:20pm Joseph called Toni and said that he did call the Hotline Center and they told him to sleep it off. Toni listened to what Joseph was saying and she felt that he was not telling the truth because the Hotline would not tell him that. Near the end of the conversation Joseph told her to tell Brian that he loves him. He said he was sorry for being a disappointment and she responded that he wasn't. He said that he was going to take the pills and that he loved her. They talked for about 10 minutes.

At 7:30pm Toni called the Green Bay Police Department and asked them to check on Joseph and told them, "I'm afraid he is going to overtake his pills." The telecommunicator asked her if he had any weapons and Toni told her that he had no weapons. At 7:34pm, 8:09pm and 8:10pm Toni tried to reach Joseph but was unable.

At 8:23pm Toni received a phone call from a Green Bay Police Officer telling her that they needed to come to her house and talk to her. She asked what was going on with her son's welfare check and she was told that they would be right out to talk to her.

Toni states that she received no other phone calls from anyone prior to contact with law enforcement personnel and the Assistant Medical Examiner who came to her home approximately an hour later (02/24/15 at 9:49pm) to notify her of this incident and the passing of her son.

**Injuries to Joseph Biegert**

The autopsy identified twelve wounds to the body of Joseph Biegert including one wound to the head and six wounds to the torso and arms. All of these wounds traveled front-to-back. In addition, there was one gunshot wound to the finger of the right hand, two graze wounds to the left arm and abrasions to the face and upper extremities. None of the gunshot wounds were contact wounds.

The Toxicology Report for Joseph R. Biegert, issued by NMS (National Medical Services) Labs indicated positive findings for prescription anti-depressants and an amphetamine.

**Statements of Green Bay Police Officers**

**Police Officer Meisner**

On the evening of Tuesday, February 24, 2015, Officer Meisner was on uniform patrol in the City of Green Bay. Officer Krueger and Officer Dunn had been dispatched to 1511 Plymouth Lane, Apartment E, in the City of Green Bay, County of Brown, State of Wisconsin, for a report that the complainant's son had called her and told her that he had just taken a bottle of anti-depressants and he was severely depressed. Officer Meisner heard that dispatch had also dispatched Green Bay Metro Fire Department to respond and that they were staging.

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At approximately 1941 hours, Officer Meisner was stopped at the red traffic signal on Shawano Avenue at Military Avenue facing westbound when he overheard a short call on the radio stating "shots fired," and dispatch started sending additional officers to the area to assist. Officer Meisner responded as he was very close to Plymouth Lane. While en route Officer Meisner overheard another radio dispatch stating again "shots fired, Officer stabbed."

Officer Meisner was the first to arrive on scene in addition to Officer Krueger and Officer Dunn and he observed that Green Bay Metro Fire Department was leaving the scene very fast in the other direction. Officer Meisner exited his patrol car, which he parked directly outside the parking lot of 1511 Plymouth Lane. As Officer Meisner entered the apartment complex door which was facing west, he could immediately smell the strong odor of gun powder. Officer Meisner ran up the stairs and, as he entered Apartment E, Officer Meisner observed Officer Krueger standing in the entrance with his gun pointed at a male later identified as Joseph R. Biegert. Biegert was lying approximately three feet away from Officer Krueger in a south to north manner with his feet to the south and his head to the north. Biegert had his right arm extended above his head, palm up, and he was holding a black handled knife in his right hand. Officer Meisner estimated the knife had an approximate six-inch blade and Officer Meisner ordered the male to drop the knife. The male was unresponsive and Officer Meisner could see what appeared to be a bullet hole to his forehead, and that he was bleeding from his side and left shoulder. Officer Meisner heard the male make a couple of gasps for air and Officer Meisner again ordered him to drop the knife.

Officer Meisner asked if Officer Dunn was all right, as Officer Meisner could not see Officer Dunn and on arrival Officer Krueger told Officer Meisner that Officer Dunn had been stabbed. Officer Dunn responded that he was okay and he was told to get out of the apartment because the extent of his injuries was unknown. Officer Dunn exited the apartment by walking around the initial scene in a clockwise pattern using the exterior walls as much as possible. As he approached Officer Meisner, Officer Meisner could see a glistening on the right sleeve of Officer Dunn's uniform shirt. Officer Meisner told Officer Dunn to get outside and to get evaluated by Green Bay Fire for his injuries.

Officer Krueger and Officer Meisner stood by waiting to secure Biegert into handcuffs until other officers arrived. Officer Waln and Officer Brey arrived shortly after. Officer Krueger stated at that time he was also injured. Officer Krueger stepped into the hallway and Officer Waln, utilizing his baton, knocked the knife out of Biegert's right hand, knocking it approximately one foot away.

Officer Meisner and Officer Brey then moved towards Biegert, rolling Biegert towards his right onto his stomach and handcuffed him with his hands behind his back. Officer Meisner checked for signs of life and found no pulse in his neck. Officer Meisner knew that Biegert's injuries were significant so he notified dispatch that Biegert was secured and that rescue could approach. Two Green Bay firefighters arrived on scene and also assessed for life and stated that Biegert had died.

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Officer Meisner then surveyed the scene and observed that the apartment was disheveled and it appeared that a struggle had ensued. Items were knocked over and Officer Meisner saw two Tasers lying on the kitchen floor with the Taser wires on the floor. Officer Meisner observed an extended collapsible baton lying on the living room floor and a flashlight in the main walkway. Officer Meisner observed several shell casings on the floor and a mushroomed (fired) bullet lying on a towel on the floor. Officer Meisner observed white pills all over the floor and a form from Nicolet treatment facility just to the left of where Biegert had fallen with Biegert's name on it.

Officer Meisner continued to survey the scene and noticed that the knife was no longer where it had been knocked from Biegert's hand. Officer Meisner found that the knife was under the chair in the living room and assumed it was knocked there when the officers were handcuffing Biegert.

Lieutenant Brad Strouf arrived on scene shortly after and Officer Meisner briefed him on what he had observed. Lt. Strouf asked Officer Meisner to stand by as scene security until relieved. Officer Meisner maintained security until 2220 hours when he was relieved and returned to the Green Bay Police Department.

Police Officer Waln

On February 24, 2015, Officer Waln was on separate welfare check call at approximately 19:41 hours, when he heard what sounded like Officer Dunn call out on the radio something that sounded like, "Shots fired" and then ask for more cars. Officer Waln immediately responded with lights and sirens to Officer Dunn's location, 1511 Plymouth Lane, Apartment E, and believed he was the second officer to arrive on scene.

Officer Waln ran to the apartment complex and opened the rear-facing door which faces east. As Officer Waln ran through the common hallway, he saw Officer Dunn walking down the steps holding his arm as if he was injured. Officer Dunn said that he had been stabbed. At that time Officer Dunn was by himself. Officer Waln requested that the officer behind him, believed to be Officer Oberle, stay with Officer Dunn and escort him to the ambulance.

Officer Waln continued upstairs to Apartment E where the door was open. Officer Waln could see Officer Meisner and Officer Krueger with their guns out holding cover while standing inside the apartment. Officer Waln also saw a male suspect lying on the floor on his back, still holding a large butcher knife in his right hand. The male had his arm almost straight out above his head.

At that time it was determined that the apartment was not cleared and it was decided that officers would approach and handcuff the suspect. Officer Waln took out his department-issued wooden baton and pinned the male's hand down and slid the knife out of his hand. During that contact, Officer Waln did not experience any resistance or movement by the male suspect. After sliding the knife approximately one foot away from the suspect, other officers stepped in to handcuff the suspect.

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Officer Waln then cleared the rest of the apartment to make sure there were no other suspects or victims. As Officer Waln walked back out through the scene, he observed two Tasers that were lying on the kitchen floor approximately five to six feet away from the suspect, at least one of which appeared to have been fired. Officer Waln observed that there was a fired cartridge still attached to the Taser with wires hanging out of the cartridge. Officer Waln also saw approximately three handgun spent shell casings that were visible on the floor in the immediate area of the suspect. Officer Waln also saw an expandable metal baton on the floor near the living room that was fully expanded. Officers stayed on scene while Officer Waln exited the apartment to check neighbors to make sure no one else was injured.

Police Officer Brey

On February 24, 2015 at approximately 7:40pm, Officer Craig Brey was dispatched to 1511 Plymouth Lane, Apartment E, to assist Officer Krueger and Officer Dunn, who were in a struggle with a subject. Upon arrival Officer Brey approached Apartment E, which is on the second floor, and observed Officer Meisner, Officer Waln and Officer Krueger standing in the doorway of Apartment E holding a male subject at gun point and yelling commands. Officers were yelling at the subject to drop the knife.

Officer Krueger advised Officer Brey to take his place and Officer Krueger exited the apartment. Officer Brey then pointed his weapon at the male subject who was lying on his back. Officer Brey observed that the male subject had a large knife in his right hand and that the male subject was not responding to officers' commands to drop the knife. Officer Brey observed a bullet hole in the forehead of the male subject. Officer Waln then knocked the knife from the subject's right hand using his baton. Officer Brey then observed the male subject gasp for air then stop breathing.

Officer Brey rolled the subject to his left and handcuffed the subject then noticed that the subject was no longer breathing and Officer Meisner requested that rescue approach. Officer Brey was then requested to take photos of the scene and, while doing so, observed that there were two Tasers and a Coban microphone on the kitchen floor of the apartment. Officer Brey also observed an expandable baton lying on the floor in the living room. Officer Brey was then informed that a bullet went through the floor of Apartment E and into the wall of the apartment directly beneath.

Police Officer Haack

On February 24, 2015 at approximately 19:31 hours, Officer Haack was dispatched to 1511 Plymouth Lane, Apartment E, in reference to shots fired inside the apartment building. Officer Haack also heard an officer may have been stabbed. Officer Krueger and Officer Dunn were dispatched to this address in reference to a welfare check of a suicidal male. Officer Haack was dispatched to this address to back up these officers. Dispatch advised that the subject has had several earlier suicide attempts.

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Upon arrival, Officer Haack entered the apartment building with several other officers. Officer Haack observed Officer Dunn run down the stairway leading to Apartment E and Officer Oberle said she would escort Officer Dunn to the ambulance. Once upstairs, Officer Haack observed Officers Waln, Brey, Meisner and Krueger stacked outside of Apartment E. Officer Haack took Officer Krueger's place in the stack while officers held on the male lying on the floor between the kitchen and living room. Officer Haack observed that the subject on the floor had a large knife in one of his hands. Officers were yelling commands at the male to drop the knife and the subject was not responding. It appeared to Officer Haack that the man on the floor was deceased. Officers decided to remove the knife prior to handcuffing, so Officer Waln used his baton to remove the knife from the subject's hand. Officer Brey then handcuffed the male subject.

Police Officer Matthew Dunn

On Friday, February 27, 2015 two Special Agents from the Wisconsin Department of Justice – Division of Criminal Investigation interviewed Green Bay Police Officer Matthew Dunn in a conference room in the Green Bay Police Department. Also present were Officer Dunn's attorney, a Companion Green Bay Police Officer and a Green Bay Police Captain. The interview was recorded by DCI and the Green Bay Police Department. Officer Dunn provided the following information:

Officer Dunn advised that he had never known, or encountered any way, the subject, Joseph Biegert, prior to this incident.

Officer Dunn first took a call for a male who was schizophrenic and had a crisis at home. Officer Dunn took this person to the Crisis Center where he sat with the male for an extended period of time. After clearing from that call, Officer Dunn was cleared by dispatch to take a meal break.

Upon returning to his squad, Officer Dunn was dispatched along with Police Officer Brian Krueger to 1511 Plymouth Lane, Apartment E, for a welfare check. The dispatcher advised that there was a male at that location who had texted a friend that he had taken a lot of medication in an apparent suicide attempt.

Upon acknowledging the call Officer Dunn was asked by dispatch if he wished to have Rescue dispatched. Officer Dunn responded in the affirmative and asked to have Rescue stage nearby. Officer Dunn observed upon approach to the address that Rescue was already on scene at the corner of Plymouth Lane and Fisk Street.

Officers Dunn and Krueger then went to the door on the west side of the building, which Officer Dunn described as the front door. Upon entering the building the officers found that Apartment E was on the second floor, so they ascended the stairs and found that Apartment E was at the top of the stairs.

Officer Dunn stood to the right of the door and knocked on the door. A male inside the apartment asked who it was and Officer Dunn told him it was the police. The male replied "OK" then

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Officer Dunn heard the male walk away from the door and “rummage” at something then return and open the door. Officer Dunn asked the male if he was Joseph and the male said he was and acknowledged that he, Biegert, was depressed. Officer Dunn asked Biegert if Officers Krueger and Dunn could enter Biegert’s apartment to speak with him. Biegert then allowed both officers in and walked in front of the officers into the apartment. Officer Dunn heard sounds in the bedroom and asked Biegert who else was in the apartment and Biegert said that he didn’t know.

Officer Krueger stayed with Biegert in the living room while Officer Dunn conducted a protective sweep of the apartment. Officer Dunn then went to the bedroom and found that the sound was made by a shade in front of an open window. Officer Dunn then checked the bathroom and back closet and found that there was no one else in the apartment. Officer Dunn then let Officer Krueger know that the apartment was cleared and that there was no one else there. Officer Dunn returned to the living room and found that Biegert was seated on a sofa that was behind another sofa.

Officer Krueger was asking Biegert about what medications Biegert had taken while Officer Dunn observed open pill bottles and pills on the floor. When asked what he had taken, Biegert did not specify what he took but said that he took three of whatever it was. At this time Officer Dunn or Officer Krueger advised Rescue that Biegert was admitting to taking pills and cooperative and they could approach. Officer Dunn said it seemed that Biegert was going to accept their help.

Officer Krueger then asked Officer Dunn to pat-down Biegert for weapons for the safety of the Rescue personnel. Officer Dunn did not have a suspicion that Biegert was armed but was anticipating that Biegert was going to the hospital in the ambulance and he did not want to hand-off an armed subject to the ambulance crew.

Biegert stood in the narrow space between the sofa and chair and Officer Dunn asked Biegert to put his hands behind his back. Biegert complied and Officer Dunn held Biegert’s hands with his, Officer Dunn’s, left hand. Due to the limited space, Officer Dunn asked Biegert to take a step forward. Biegert stepped forward into a more open space and Officer Dunn started to pass his hand across Biegert’s front belt area when Biegert said something like, “what are you doing?”

Biegert then began to pull away and his right hand came loose. Officer Krueger grabbed Biegert’s left hand and Officer Dunn grabbed Biegert’s right hand and tried to return Biegert’s hands to the small of his back. Biegert then began to attempt to pull the officers and to pull his arms away. Officer Dunn described “a lot of resistive tension in his (Biegert’s) arms.”

Biegert pulled the officers toward the kitchen and Officer Dunn said he remembered hearing someone say, “Don’t do anything stupid.” The officers attempted to pull Biegert back and tried to decentralize him but Biegert continued to drive them toward the kitchen. Officer Dunn advised that he had earlier observed a knife block on the kitchen countertop.

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When they reached the beginning of the kitchen area Officer Dunn put his leg in front of Biegert to try to impede Biegert's movement, which brought Officer Dunn and Biegert down. Officer Dunn fell onto his right side with his back toward the island that separated the kitchen and living room areas. Officer Dunn's mobility was limited at this time because Biegert was on his legs and Officer Dunn could not stand. From this position Officer Dunn did whatever he could to attempt to control Biegert's arms.

Officer Dunn then attempted to access his Taser when he heard Officer Krueger say, "He has my Taser." Officer Dunn was then able to get out his Taser and he attempted to index it onto Biegert's abdomen. As Officer Dunn attempted to switch on the Taser, Biegert moved and, when Officer Dunn deployed the Taser, he heard Officer Krueger react as if the Taser struck him, Officer Krueger. The Taser was not effective on Biegert, who continued to fight. Officer Dunn heard Officer Krueger screaming but, at the time, Officer Dunn had no idea why Officer Krueger was screaming.

Officer Dunn said that the room was very dark but he could see that Officer Krueger was striking Biegert and it was having no effect on Biegert. Biegert continued to attempt to get up and Officer Dunn continued to attempt to control Biegert by grabbing his arms and pull him to the ground.

Officer Dunn was still on the ground and on his back when Biegert was able to access the countertop. When Biegert came back from the countertop he was standing over Officer Dunn, who saw Biegert draw his right hand back and Officer Dunn was able to see a long knife in Biegert's right hand. Officer Dunn remembered that Biegert was over him, Officer Dunn, at this time and was either on his feet or knees. Officer Dunn advised that his attention was focused on the knife in Biegert's hand.

Biegert then lunged at Officer Dunn's throat or chest with the knife and Officer Dunn used his left arm to deflect the thrust and the attack went over Officer Dunn's left shoulder. Biegert immediately drew his right hand back and came at Officer Dunn again. Officer Dunn started to attempt to draw his pistol and used his left hand to again deflect the stab, this time to Officer Dunn's right side.

Biegert withdrew the knife and pushed it toward Officer Dunn again. Officer Dunn remembered hearing screaming but did not remember if it was Officer Krueger, Biegert or he, Officer Dunn. After what he remembered as three stab attempts by Biegert, Officer Dunn felt a "sting" in his right arm. Biegert was now further off of Officer Dunn and Officer Dunn's legs were free. Officer Dunn did not remember if this happened because he kicked Biegert or if Biegert stood up. Officer Dunn was then able to unholster his sidearm. Biegert was still facing Officer Dunn and Officer Dunn saw that Biegert still held the knife in his right hand.

Officer Dunn held his pistol in front of him and began firing because he believed Biegert was going to return and attempt to kill him, Officer Dunn with the knife. As Officer Dunn was firing, Biegert started to turn to his left then fall. Officer Dunn saw that Officer Krueger was not in the

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kitchen at this time and he did not know if Biegert was turning to attack Officer Krueger as he, Officer Dunn, was firing.

When asked if he heard Officer Krueger firing, Officer Dunn said he did not remember hearing any gunshots. Officer Dunn described being in “total auditory exclusion.” Due to the lack of sensory feedback at the time of his discharging his weapon, Officer Dunn was not sure if his gun was firing.

Officer Dunn stood and conducted an in-battery reload and placed the magazine from which he had fired into “position three” on his duty belt. Officer Dunn then held his firearm on Biegert, who was on the ground and not moving and both he, Officer Dunn, and Officer Krueger gave Biegert orders to drop the knife and not move. Biegert had “shallow, raspy” breathing which ceased soon thereafter and Officer Dunn heard Officer Krueger asking if he, Officer Dunn, was OK.

Initially, Officer Dunn told Officer Krueger that he was alright but then did a self-check and noticed that his right uniform sleeve was torn and he was bleeding, leading him to believe he was stabbed. Officer Dunn advised Officer Krueger of this and Officer Krueger relayed the information over the radio.

Officer Dunn attempted to breath and process what just happened and Officer Krueger directed Officer Dunn to a path of safe egress around Biegert, who was on the ground with his head toward the middle of the living room and his face toward Officer Dunn, in the kitchen.

Officer Dunn continued to hold his gun on Biegert, who still held the knife in his right hand and he, Officer Dunn, moved around Biegert’s feet, around behind the television and the sofa then exited the apartment. Officer Meisner had arrived when Officer Dunn attempted to re-enter the apartment to back-up Officer Krueger. Both Officers Krueger and Meisner told Officer Dunn to go outside and get to an ambulance. As Officer Dunn walked down the stairs he saw other officers coming up the stairs.

Officer Oberle accompanied Officer Dunn to the ambulance, which was one block away. Officer Dunn said he sprinted to the ambulance and knocked on the door and told the crew that he was stabbed. The Rescue personnel found two stab wounds to Officer Dunn’s right bicep.

Regarding Joseph Biegert’s disposition upon their initial contact with him, Officer Dunn said that Biegert told the officers that he was depressed and Officer Dunn observed that Biegert had the “hunched shoulders” indicative of a depressed individual. Officer Dunn did not perceive a threatening manner from Biegert and said that the first time Biegert resisted was when Officer Dunn began his pat-down. Officer Dunn said that Biegert did not resist when he was holding Biegert’s hands behind his back. Officer Dunn said he held Biegert’s hands behind his back by holding Biegert’s two index fingers together with his, Officer Dunn’s, left hand. Officer Dunn advised that, at the time he was starting to frisk Biegert, he was still concerned about what

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Biegert had done or obtained when he delayed opening the door for the police.

Officer Dunn said that he fired his weapon at Joseph Biegert to stop an imminent threat on his life and he stopped firing when the threat ended. Officer Dunn did not have any sensory feedback of firing a gun until after he stood and started to breathe at which time he was able to smell the gun smoke. Officer Dunn had no perception or memory of Officer Krueger firing his weapon.

Upon going over the events Officer Dunn recalled that, after he had deployed his Taser, Biegert knocked the Taser out of his, Officer Dunn's, hand. Officer Dunn remembered that the only verbalization after he fell to the floor was between him and Officer Krueger when Officer Krueger advised that Biegert had Officer Krueger's Taser. Officer Dunn did not remember hearing Biegert say anything after the struggle began.

Police Officer Brian Krueger

On Friday, February 27, 2015, two Special Agents from the Wisconsin Department of Justice – Division of Criminal Investigation (DCI) interviewed Green Bay Police Officer Brian M. Krueger. DCI and GBPD audio-recorded the interview. The same attorney and Green Bay Police personnel present for Officer Dunn's interview were present. Officer Krueger provided the following information:

Officer Krueger reported to have not known the subject identified as Joseph R. Biegert. Officer Krueger reported to have never had any other calls for service with Biegert. Officer Krueger reported he had no social connections/interactions with Biegert.

At approximately 7:31 p.m., Officer Krueger was dispatched to his first call-for-service. Officer Krueger was co-assigned to the call-for-service with fellow Green Bay Officer Dunn. Officer Krueger described the referenced call-for-service as a welfare check for an adult male subject (Biegert) who may have ingested "a bottle of pills." Officer Krueger stated the call originated from the subject's mother who was concerned for her son's safety/welfare. It was believed the mother (caller/complainant) had been in telephone contact with her son when she learned of the reported/alleged information.

Officer Dunn arrived ahead of Officer Krueger, and was parked, by the time Officer Krueger arrived on scene. Upon arrival, Officer Krueger ran to catch up to Officer Dunn walking up to the apartment building.

Officer Krueger followed Officer Dunn into the subject apartment building. The officers walked up two flights of stairs to the second level subject Apartment E. Officer Dunn knocked on the exterior (hallway) door to Apartment E and announced their presence. Officer Krueger and Officer Dunn each heard the subject, later identified as Joseph Biegert, come to the door, answer them, and then the subject walked away from the door to a more interior position. Each of the officers heard the subject make some noise inside the apartment.

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Biegert then answered the door and gave verbal permission for the officers to enter his apartment. Officer Krueger followed Officer Dunn into the apartment.

Upon entering the main living area to the apartment, Officer Krueger observed three pill bottles on the floor with their covers off. Officer Krueger observed individual, or loose, pills lying upon the floor. Officer Krueger also observed blue and white-colored pills on the floor. Officer Krueger asked Biegert how many pills he may have ingested. Biegert replied "three." Officer Krueger said he thought Biegert may have ingested three bottles of pills because of the containers he observed upon the floor.

Officer Krueger heard a noise from "down the hall, on the left." Officer Krueger stated Officer Dunn also heard the noise and proceeded to walk down the hall to perform a safety sweep for any other persons inside the apartment. Officer Krueger inquired of Biegert who else was in the apartment and Biegert responded that he didn't know, which made the officers suspicious and cautious.

After Officer Dunn investigated the source of the noise, Officer Dunn re-emerged and identified an open window where the shades were banging as the source. Officer Dunn informed him things were "clear" and there was no one else in the apartment. Officer Krueger inquired about any other persons in the apartment because he wanted to make certain no one else was present, or wanted to make sure someone did not jump out a window. Officer Dunn came back to Officer Krueger's location inside the apartment. Officer Krueger described the apartment as cramped because of the amount of debris and position of furnishings inside the small apartment.

When Officer Dunn returned to his location, Biegert placed his left hand inside a pocket. Officer Krueger directed Biegert to remove his hand from his pocket. Biegert complied and removed his hand from wherever he had placed it. Officer Krueger described Biegert as "nervous."

As a result, Officer Krueger asked Officer Dunn to perform a pat-down search of Biegert's person for any potential weapons, as Officer Dunn had more room on his side to perform the procedure. As Officer Dunn began to perform the pat-down of Biegert, Officer Krueger simultaneously rolled the pill bottles on the floor, back with his foot, to attempt to observe what type of medication the pills were, as well as for safety reasons. Officer Krueger was attempting to determine the type of medication Biegert may have ingested, so that Officer Krueger could inform rescue personnel of such information. Officer Krueger still had his flashlight out. Officer Krueger then spoke to dispatch via his portable radio and informed dispatch that rescue could approach.

As Officer Dunn continued to attempt the pat-down procedure, Biegert attempted to pull away from the officers and pulled each of them toward the kitchen while they attempted to regain control of Biegert. Officer Krueger dropped his flashlight and attempted to grab Biegert's left side. Officer Krueger's intention was to attempt to gain an escort hold and to decentralize Biegert as he attempted to suddenly move and charge away from their grasp/control. Officer Krueger also

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intended to attempt to handcuff Biegert for safety and control.

Because of Biegert's described momentum, determination, and strength, Biegert pulled the officers toward the kitchen area of the apartment. All three of them then fell to the floor, at or near the entry to the kitchen area. Biegert got up off the floor as the two officers attempted to control Biegert's movements and person. Biegert was able to pull each of the officers fully into the galley-sized kitchen, near the stove in the corner of the kitchen, at which time all three subjects again fell to the floor.

Officer Krueger had observed a "butcher block" atop the counter in the kitchen, which had knives in it. Officer Krueger described knowing there were a lot of knives inside the butcher block and he made a mental thought that going down in the area in which they did was a "bad spot." Officer Krueger was attempting to control Biegert's right hand at this time.

Officer Krueger believed Officer Dunn was somewhere under Biegert, while Biegert was on his back next to Officer Dunn while looking upward, or toward, Officer Krueger. Officer Krueger straddled Biegert's body, on top of Biegert and Officer Krueger attempted to gain control of Biegert. Officer Krueger was unable to control Biegert, as Biegert was "thrashing" about. Officer Krueger described Biegert as having "ridiculous strength" during the event. Officer Krueger drew his electronic control device (also known as a Taser) and observed Biegert's mid-section was exposed. Officer Krueger attempted a contact deployment of the Taser to Biegert's mid-section in an attempt to control Biegert. Upon placing the Taser to Biegert's stomach and engaging the Taser, Officer Krueger never heard the telltale "pop" sounds. Officer Krueger did recall hearing the "arching" sound. Officer Krueger also recalled seeing the blue/purple colored lights of arching because it was dark inside the kitchen area. The Taser had no effect on Biegert, whatsoever. As a result, Biegert became more "animated" and "angry." Officer Krueger rocked the Taser on Biegert's belly without effect.

Biegert then grabbed Officer Krueger between his legs and squeezed Officer Krueger hard and Officer Krueger felt "nearly incapacitating pain." Biegert then reached and attempted to grab Officer Krueger's Taser. Officer Krueger recalled yelling loudly in response to the pain he experienced and further described the pain as excruciating. Officer Krueger was able to get his Taser out of Biegert's hand while yelling to Officer Dunn that Biegert had his Taser. At some point, Officer Krueger believed that no one had the Taser. Officer Krueger then began performing focused strikes with his strong side closed hand to Biegert's face. Officer Krueger attempted focus strikes because he knew he was unable to deploy his OC spray as it would have negatively affected both officers.

Biegert was still "thrashing" and struggling with officers in the corner of the kitchen. Officer Krueger recalled that Biegert's face/head were contacting either the stove or cupboards in the area. Officer Krueger remembered that Biegert's eyes were very large and Biegert had no facial expression.

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Officer Krueger's directed strikes were not having any effect, so Officer Krueger drew his baton from his duty belt and began to index it while Biegert continued to thrash and fight. Officer Krueger described Biegert as "bucking up-and-down" in an attempt to throw Officer Krueger off of him. Officer Krueger began to squat above Biegert when Officer Krueger suddenly locked up. Officer Krueger felt his entire body become rigid and go stiff. Officer Krueger felt he was being Tased. As Officer Krueger locked up, Officer Krueger felt Biegert's momentum raise him, Officer Krueger. Officer Krueger held his left hand on top of the kitchen counter and willed himself to fight through the charge so that he could "help Matt" (Officer Dunn). Officer Krueger stated he held himself up during the cycle of the Taser charge so that he would be able to be in a better position at the end of the Taser cycle.

Officer Krueger then received a second Taser cycle, which caused him "incapacitating pain." Officer Krueger again held his hand upon the kitchen counter and sustained the charge of the cycle so he could help Officer Dunn. When the second Taser cycle ended Officer Krueger expanded his baton.

After the second Taser cycle, Officer Krueger had his baton expanded and prepared to perform strikes to wherever he could upon Biegert. Biegert was one-half to three-quarters standing after the second Taser cycle when Officer Krueger could become active again. At that point, Officer Krueger recalled hearing Officer Dunn yell that he, Officer Dunn, had been stabbed or that "he (Biegert) tried stabbing me." All Officer Krueger knew was that Officer Dunn was yelling. Officer Krueger did not know where Officer Dunn had been stabbed or how severe any injury/wound was to Officer Dunn. Officer Krueger remembered thinking that Officer Dunn could have possibly been "bleeding out" and his life was threatened. Upon learning that there was a knife he immediately threw his baton to keep it from potentially being utilized by Biegert. Officer Krueger believed Biegert had just tried to kill Officer Dunn. Officer Krueger did not see a knife at this point.

As soon as Officer Krueger discarded his baton, Biegert turned toward Officer Krueger and Officer Krueger saw that Biegert was holding a knife. Officer Krueger estimated the knife blade to be approximately ten inches long. As Biegert was turning toward Officer Krueger, Officer Krueger drew his service pistol from his holster and simultaneously stepped back. Biegert continued to step toward Officer Krueger so Officer Krueger fired his pistol at Biegert to stop Biegert's attack. Officer Krueger believed that he discharged his firearm three times directly at Biegert. After the third shot, Biegert went limp and fell down. Biegert's head fell toward Officer Krueger then Biegert landed on his back with Biegert's hands above his head. Biegert still held the knife in his right hand upon falling to the floor. Officer Krueger described the knife as having a brown-colored handle and said the knife was consistent with the knives in the set in the kitchen which he recalled seeing during the altercation.

After Biegert was down, Officer Krueger moved to a location of cover—around the corner, behind the entrance hallway wall (opposite side of the kitchen). Officer Krueger yelled at Biegert to not move. Officer Krueger's immediate thoughts and concerns were for Officer Dunn. Officer

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Krueger remembered thinking he did not know if Officer Dunn was "bleeding out" or if he was dying. Officer Krueger recalled someone asking for rescue to come up. Officer Krueger transmitted via mobile radio that rescue could not come up and then that "suspect was down, Matt (Officer Dunn) was stabbed, I'm (Officer Krueger) okay, and we need more guys" (police officers). Officer Krueger recalled thinking that he had to get Officer Dunn out of the apartment, immediately.

Additional Green Bay police officers then arrived behind Officer Krueger's position. Officer Krueger directed Officer Dunn to walk the perimeter of the room in order to exit the apartment. Officer Dunn got to the far corner of the apartment (near the television) and then out of the apartment to the hallway for needed medical attention. Officer Krueger continued to visually cover Biegert in case Biegert re-engaged with the knife. However, Biegert never moved again and Officer Krueger held his position until there were enough fellow police officers to take over.

Officer Krueger believed he heard Officer Dunn discharge Officer Dunn's service pistol one time. Officer Krueger thought there had been some type of light on inside the apartment but there had not been any lights on inside the kitchen.

Officer Krueger stated that he perceived Biegert was not trying to get away when Biegert lunged toward the kitchen. Biegert never tried to move toward the apartment door to escape. Officer Krueger believed that Biegert intended to stab Officer Krueger with a knife, and was trying to kill Officer Krueger. Officer Krueger explicitly stated he stopped firing his service pistol when the threat (Biegert with knife) stopped.

### **Scene Examination**

The address of 1511 Plymouth Lane is a tan-over-white, two-story, six-unit apartment building located on the southeast corner of the cul-de-sac that is the end of Plymouth Lane. Apartment E is on the second floor on the northwest side of the building.

Apartment E is entered through a door on the south side of the apartment. A coat closet is located on the right, immediately inside the door with a smaller closet in the wall on the left. This short hall opens into a carpeted living room area that spans the width of the apartment. A dark-green sofa was against the wall on the east side of the living room and a matching chair was near the north side of the living room approximately three feet from the sofa. A small, wooden table was located to the west of the chair and a television hutch with a television was just west of the table, approximately one foot from the west wall of the living room. Heating vents ran the length of the living room floor and an in-wall air conditioner was installed in the lower part of the west wall of the living room.

North across this room is another short hall with a closet on the right and the single bedroom on the left. At the end of the hall is the bathroom. The only item of interest to this investigation in the bedroom was that a window was open at the time of the incident and the investigation. In the

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southwest corner of the apartment, adjacent to the living room is a galley-type kitchen with a linoleum floor. A small island separated the kitchen from the living room. A counter with sink and a stove/oven range span the south side of the kitchen with cabinets above and below. On the counter to the left of the sink there was a microwave oven and on top of the stove there was a cup cake pan and a wood block full of knives.

The following evidence was recovered on the scene:

One fired and deformed bullet was located on top of a towel located next to the east wall near the south end of the couch against the east wall. There were plastic bags, a garbage can, a clothes bin and clothing piled in this area.

A black colored flashlight was on the living room floor in front of the south end of the couch.

One fired cartridge was on the living room floor just to the west of the fired bullet described above.

Another fired cartridge was on the living room floor just to the north of the above-described fired cartridge.

An expandable baton was on the living room floor partially under the entertainment center located in the northwest corner of the living room.

Another fired cartridge was on the floor just to the east of the counter and west of the body of Joseph Biegert.

Another fired cartridge was on kitchen floor next to the south cupboard wall.

Another fired cartridge was on the kitchen floor next to the cupboard and refrigerator, located on east wall of the kitchen.

Another fired cartridge was located on the kitchen floor next to the right side of the refrigerator, which is located on east end of the kitchen area.

Two Green Bay Police Department issued Tasers were on the kitchen floor.

A Green Bay Police Department issued Coban microphone was on the kitchen floor next to a heat register at the base of the west wall.

A pair of glasses was on the kitchen floor partially under the heat register.

A kitchen knife with black handle and serrated edge with suspected blood on the blade was located on the living room floor under the living room chair on the north side of the living room.

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A fired cartridge was located on the living room floor under the left hip area of the body of Joseph Biegert.

A black cellular phone was located on the living room floor.

A fired cartridge was located on the living room floor in front of the couch under a black jacket near the entrance to the hallway that leads to the bedroom and bathroom.

Another fired cartridge was discovered when Biegert was placed into the body bag. The fired cartridge rolled out from under a gray, zip-up sweatshirt jacket that was located next to the left leg area of the body of Joseph Biegert.

A fired bullet was removed from inside the insulation from the inside west wall of an adjacent apartment.

A bullet hole was observed under the carpet in the living room approximately one foot from both the island and the border with the kitchen floor. This hole was traced to the bullet that was recovered in the western wall of the adjacent apartment.

Also present were fourteen white pills, one blue pill and one empty blue capsule on the floor of the living-room and kitchen of the scene. In addition, six empty prescription pill bottles and three pill bottle caps were on the floor of the living room. Three wet, red stains, believed to be blood, were on the living room carpet under and near the body of Joseph Biegert.

Also found in Apartment E was a hand-written note that said, "Try to go to the other side." It was dated 6/19/14 and the name Joe Biegert was on the note.

During the autopsy that occurred on February 25 and 26, 2015, six fired bullets were recovered. In addition to the two fired bullets recovered during the initial search, Investigators discovered that one fired bullet was unaccounted for. The Green Bay Police Department was advised of the missing bullet and, on February 26, 2015, members of the Green Bay Police Department re-searched Apartment E and located the missing bullet in a baseboard heater in the living room.

### **Police Officer Matthew Dunn's Coban Mic**

Officer Dunn's Coban microphone was turned on and recovered on-scene. A review of the recording found that it was consistent with both officers' statements.

### **Crime Lab Results**

A crime lab report dated April 14, 2015 regarding DNA testing of evidence recovered from the scene of Joseph Biegert's death, and comparison to the DNA standard of Police Officer Matthew

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Dunn, was received by DCI on April 22, 2015. The report indicated that the stains on the handle and blade of the knife were blood and the DNA of the blood on the blade matched Officer Dunn's DNA. The report indicated that the DNA on the knife handle and the DNA that was obtained from one of the hairs recovered from Biegert's hand at autopsy did not match Officer Dunn's DNA.

A second crime lab report dated April 23, 2015 regarding comparison of the DNA standard of Joseph Biegert to evidence recovered on the scene indicated that the DNA of the hair recovered from Biegert's hand at autopsy, the blood on the knife handle, and the blood on the floor all matched Joseph Biegert's DNA.

**District Attorney Review**

The Wisconsin Department of Justice – Division of Criminal Investigation submitted all reports to the Brown County District Attorney's Office for review.