

Green Bay police sued in 2015 fatal shooting

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GREEN BAY – The mother of a man shot dead by Green Bay officers in 2015 has filed a complaint in federal court claiming police violated the man's civil rights and used excessive force when trying to take her son into custody.

The complaint, filed by Toni Biegert on behalf of Joseph Biegert's estate, alleges that officers were not properly trained and took inappropriate actions in trying to take into custody a person who typically was non-violent and who they knew suffered from mental illness.

It "was widely known in the GBPD rank and file that Joseph Biegert suffered from mental illness and was

See LAWSUIT, Page 5A

Lawsuit

Continued from Page 1A

non-violent in each and every encounter with GBPD officers. ... The policy-makers of Green Bay made/make a conscious choice from various alternatives to follow (a) custom of condoning constitutional rights violations," attorney Walter Stern III wrote in a filing made late Tuesday.

Biegert had stabbed Officer Matthew Dunn in the arm with a kitchen knife before being shot.

Biegert's claim lists the city of Green Bay, officers Dunn and Brian Krueger, now-retired-Chief Tom Molitor, and 10 unnamed officers as defendants. It seeks unspecified damages, and demands a jury trial.

The incident began on the chilly evening of Feb. 24, 2015, when Toni Biegert asked authorities to check the welfare of her 30-year-old son at his apartment at 1511 Plymouth Lane on the city's west side. Police said at the time they were told Biegert was "possibly suicidal."

A state investigation found Joseph Biegert resisted when officers tried to frisk him, and could not be subdued by a Taser or by strikes from the officers' hands or a baton.

At one point, investigators said, Dunn tried to use his Taser to subdue Biegert but struck Krueger as the three men struggled inside the darkened apartment. Biegert then grabbed a kitchen knife and attacked Dunn, rec-

ords show, leaving a 2-inch gash in the officer's bicep.

Officers then shot and killed Biegert. Dunn fired five shots; Krueger four.

Krueger suffered an unspecified injury that kept him out of work for several days.

Brown County District Attorney David Lasee later called the incident "a tragedy that no one wanted to happen," but said the officers were justified in using deadly force to defend themselves.

The department's current chief, Andrew Smith, joined the department after the shooting, but pointed out that an investigation of the incident said the officers responded appropriately when dealing with a man wielding a knife.

"This incident was investigated by the Wisconsin Department of Justice's Division of Criminal Investigation," he said in an email. "That independent investigation concluded that the involved Green Bay Police Department officers acted appropriately."

Other allegations in the Biegert's complaint:

■ Biegert had not committed a crime and did not appear to be a danger to himself, so Dunn and Krueger should not have tried to take him into custody.

■ The officers were not trained or qualified to make decisions about Biegert's mental well-being.

■ Dunn lied when asked by the state Department of Criminal Investigation if he'd had any previous contact with Biegert. The claim says Dunn told DCI investigators he had not, but he had, in fact, conducted a 20-minute welfare

check on Biegert less than four months before the shooting.

■ Officers failed to notify dispatchers or other officers that they intended to take Biegert into custody for his own

protection.
■ Green Bay has inadequate policies and training to enable officers to properly deal with certain people who have mental health issues.

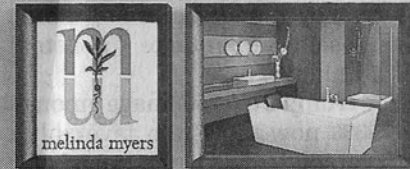


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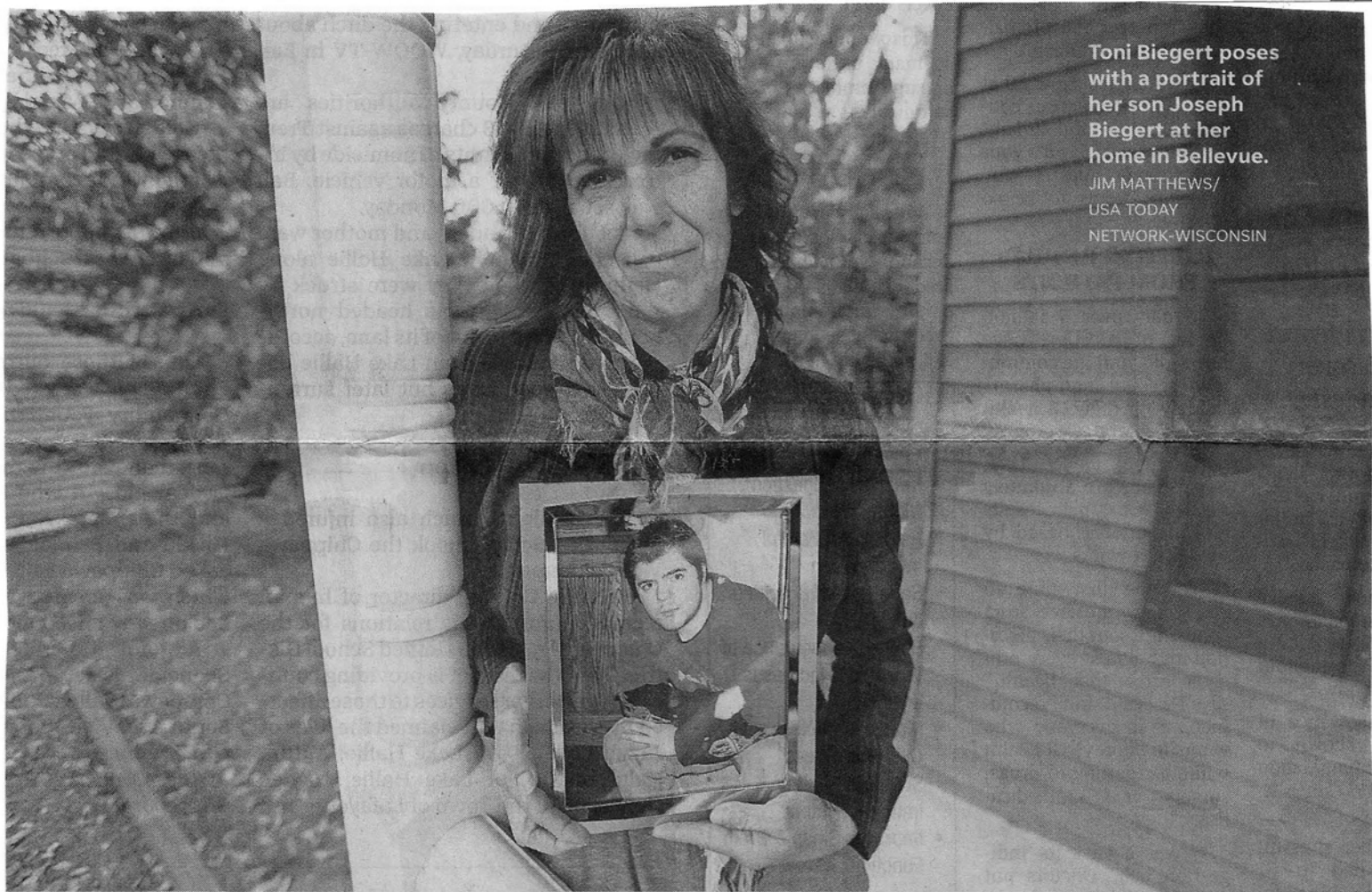


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Toni Biegert poses with a portrait of her son Joseph Biegert at her home in Bellevue.
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A DESIRE TO TURN TRAGEDY INTO A POSITIVE

Shooting victim's mom: police need more training

Paul Srubas Green Bay Press-Gazette
USA TODAY NETWORK - WISCONSIN

GREEN BAY — Soon you're going to see Joseph Biegert's smiling face looking down on you — you and all the other people moving around downtown Green Bay.

"All lives matter," his smiling face will be telling you from the vantage point of a billboard that's going up at the end of the month at Main and Monroe. "All lives matter" and "We need crisis intervention training for all police officers," Biegert will tell you.

No, Biegert is no activist. That'd be his mother, Toni Biegert, who has spent the last three years trying to get her brain and heart wrapped around the idea that she'll never see Joseph again and around the idea that he was shot to death by two Green Bay police officers.

Her pain and anger hasn't stalled in the least since Joseph, 30, was shot on Feb. 24, 2015, in his apartment on Plymouth Lane, but it all revved up and red-lined last month when Jonathon Tubby lost his life in a police shooting at the Brown County Jail.

See **TRAINING**, Page 5A

Training

Continued from Page 1A

Tubby's shooting remains under investigation, although the officer involved has been returned to active duty. Toni Biegert has already reached out to Tubby's family as a show of support and sympathy.

There's apparently something like an instant sisterhood among mothers of young men killed in police shootings. Membership naturally includes the maternal assumption that it should never have happened, but it also seems to include the more-complicated assumption the police must have been at fault.

That's how Toni Biegert is taking it, anyway.

Investigation has determined Joseph Biegert died in what police call a "good shoot" — a term Toni Biegert obviously hates, but which police use to mean the shooting was justified, an unavoidable consequence of Joseph Biegert's actions.

Toni Biegert disagrees.

Unanswered questions

Do you know that, since 2014, when Wisconsin started requiring police agencies involved in civilian shootings to get outside agencies to do the investigation, that there have been exactly zero findings of police wrong-doing in such incidents in the state? There may be a sisterhood of mothers of victims, but Toni Biegert believes it's nothing like the brotherhood that exists among police agencies.

It's entirely possible there have been zero findings of police wrong-doing because police have done no wrong. But why, Toni Biegert asks, was special agent Bradley Kust of the state Division of Criminal Investigation able to assure Officer Brian Krueger even before the investigation was over that "nobody thinks this is anything but a good shoot"?

"I thought you guys conducted yourselves real well," Kust told Officer Matthew Dunn at the beginning of his interrogation session, according to the transcript.

Investigator friendliness during an

interrogation in no way constitutes proof one way or the other, of course, but it fuels Toni Biegert's doubts about the official findings, about whether Joseph, who reportedly started out being perfectly cooperative with the officers, really suddenly freaked out when being searched for weapons, whether he really was strong enough to drag both officers from the living room into the kitchen.

"He was a Charlie Brown, not a Hercules," his mother says.

And did he really grab a kitchen knife and gore Dunn in the bicep before both officers opened fire on him?

"That's their story, not Joseph's," Toni says. "Unfortunately, he's not here to tell it."

Lawsuit seeks answers

So investigators have got the say-so of the two officers, and they have an open 911 phone line with which to compare the officers' statements.

It was a confusing scenario, and it's not easy to piece it all together from the data at hand. Biegert allegedly grabbed one of the officers by the testicles at one point, one of the officers tried to Taser Biegert and hit the other officer, there was much screaming and yelling, shots were fired. But neither officer was sure afterward whether it was he himself or the other officer or Biegert or all three of them who was doing all the screaming and yelling.

Reconstructing who did what when is no easy task, especially in a knock-down, drag-out fight.

Then there was the alleged stabbing or cutting and the shots fired. Toni Biegert scoffs that Dunn's bicep injury was so superficial he could easily have self-inflicted it to bolster his story. Autopsy photos show that Biegert's pinky had been mangled, apparently hit by one of the flying bullets, but how could he have held onto the knife? Or, conversely, why wasn't the knife handle damaged, Toni asks.

She also had questions about the location of a knife block from which Joseph supposedly grabbed the weapon — an evidence photo shows it in one place, but it would have had to have been elsewhere for Joseph to have grabbed it, so who moved it and why?

“I have the desire to make something so tragic, horrific, into something good.”

Toni Biegert

And Dunn told Kust he had never met Biegert before, didn't know anything about him, but Toni believes Dunn had done a similar wellness check on her son a month or so earlier. What about that?

These are questions raised in a lawsuit Toni has filed this year in federal court against the two officers, their former police chief and the city police department. The legal written response to her suit curtly denies her accusations, and any elaboration will have to wait until Oct. 28, 2019, when the trial is scheduled to be held in U.S. District Court in Green Bay.

The DCI found no evidence the officers did anything wrong, and the finding held up under the scrutiny of Brown County District Attorney David Lasee, who said the officers were justified in “exercising self-defense and their privilege as law enforcement officers to use deadly force.

“Because of the geography, the close quarters of the room, the officers were put in a bad position and were not able to gain control using less than lethal measures,” Lasee said.

Green Bay Police Chief Andrew Smith wasn't with the department when the incident or subsequent investigation took place and could only say he has been nothing but impressed with the professionalism and neutrality of special agents of the DCI.

As for Dunn and Krueger, Smith said, “I've got zero issues with the quality of the work they are doing. They are community-oriented, hard-working — just what you want to see. I don't know all the specifics of the incident — it occurred before I got here — but I'm quite pleased with the performance of the officers I see on a daily basis.”

Meanwhile, there are two sides to Toni Biegert's pain, and getting an alternative ruling from federal court is only one of those sides. The other is to make crisis intervention training a part of every officer's standard operating equipment.

If Dunn and Krueger knew how to deal with someone battling depression and mental illness as Joseph was, Joseph would be alive today, she believes. So she has been working with legislators to try to make such training a requirement of all police officers. She has been raising money in the hope of helping individual officers to take such training, to defray their costs.

And she has raised the money to put up a billboard featuring her son's face and a plea to provide such training to officers.

In that, she gets no argument from Smith, who said his department would happily accept her financial help toward that end. Roughly half of Green Bay officers have been through the 40-hour Community Crisis Intervention Training through the National Alliance for Mental Illness. A few other officers are scheduled for training this month, and, in February, Green Bay will host a session at the police station.

“It's a good start,” Smith said. “Couple that with the two full-time mental health officers we have, and I think we're making a good effort to try to do everything we can to provide quality service to those in crisis.”

That's what Toni Biegert is looking for.

“I have the desire to make something so tragic, so horrific, into something good,” she said. “Because my son really was good. He was fun, had a good personality. People liked Joseph. He was a teaser, loved to tease. He had the best laugh. ... He was simple. Yes, simple. A pleaser. He didn't like confrontation.

“My son's purpose in life was not to live 30 years and then die like this. If I can make (crisis training for officers) a law, then maybe there's a purpose. Maybe he had to lose this life so others could be saved, and that's what I have to tell myself every day.”