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PRESS RELEASE

Edwardsville—State's Attorney Tom Gibbons has notified Sheriff Bob Hertz that he has found the use of force by one of his officers fully lawful, reasonable and justified.

Officers from the Madison County Sheriff's Department were called to a residence at 7111 State Route 140 in the late evening hours of January 4, 2013 after receiving a 911 from residents of the home who suspected that a flammable liquid may have been poured into the chimney of their partially-underground home. Residents had suspected that it may have been done by a neighbor with whom they had an ongoing dispute.

Upon arrival, the officer was confronted by Barry Cloninger, 51, who advanced toward him pointing a shotgun in his direction. The officer, who was standing next to an acquaintance of Cloninger, ordered him to drop the gun, but Cloninger continued toward the two men and raised the gun as if he were going to fire at them. At that time, and under the threat of receiving gunfire, the officer fired several shots at Cloninger who ran away. Officers later found his body behind his residence, deceased.

Sheriff Hertz immediately referred the investigation to the Illinois State Police per Department protocol. Upon its completion, the investigation was turned over to State's Attorney Gibbons who reviewed the matter and determined that the shooting was justified.

Gibbons stated that the investigation revealed that not only was Cloninger's shotgun loaded, but that he was also legally intoxicated, having both alcohol and cocaine/metabolites in his blood, at the time of his confrontation with police. Witnesses and forensic evidence corroborated the actions of both Cloninger and the officer. "After reviewing the results of the thorough investigation completed by the Illinois State Police, it is abundantly clear to me that the officer acted reasonably in firing his weapon in this circumstance," said Gibbons. "In fact, it is highly likely that his use of force saved himself and the bystander from great harm or even death."

The use of force by a Peace Officer in Illinois is governed by 720 ILCS 5/7-5. It provides, in relevant part, that an 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 other such person."

"The use of force likely to cause great bodily harm or death must remain a last resort in a Law Enforcement Officer's fulfillment of their duties to protect and serve the public," said Gibbons. "However, as in this case, they may be left with no other reasonable, viable option. The life-threatening and destructive choices of one individual must not be allowed to endanger the public and the Officers who have sworn an oath to protect us."

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