

Man fatally shot by police is identified - Times Herald-Record, The (Middletown, NY) - June 19, 2018 - page A4

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WARWICK - State police on Monday confirmed that **Dwayne Clyburn**, 37, was the man killed Saturday in Warwick by a town police officer.

Officials are releasing little information on the shooting.

An autopsy on Clyburn's body was scheduled for Monday at the Orange County Medical Examiner's Office. Officials have said Warwick police were called at 3 p.m. Saturday to a reported domestic dispute at a home at 24 Wheeler Ave. in the Village of Warwick.

Orange County District Attorney David Hoovler has said that a person was injured at the address before police arrived, but declined to comment on the extent of the injuries or the identity of the person harmed. Hoovler said the call for help was made from the house, but declined to say who made the call.

Police have said that Clyburn threatened another occupant of the home with a knife, and that he did not obey police orders to drop the weapon.

Police said Clyburn advanced toward police, and an officer shot him. Clyburn was pronounced dead at St. Anthony's Community Hospital in Warwick, police said.

New York State Police are handling the investigation, and a grand jury will eventually hear evidence and either clear the officer if jurors determine the use of deadly force was justified, or indict if they find that the officer's actions were not a justified use of deadly force.

That process is expected to take two to three months.

Hoovler said standard toxicology tests, including alcohol and opioid panel testing, will be performed as part of the autopsy. Speaking in general terms, Hoovler said prosecutors would not generally interview the officer who fired the shots. Courts have ruled that such interviews can be considered compelled statements, a legal impediment to their use.

Hoovler said officers who were present but did not fire shots would be interviewed as a matter of policy. Hoovler declined to comment on any specifics of the investigation, including what kind of knife Clyburn might have possessed.

Warwick police referred all questions to state police, the agency handling the investigation in keeping with Orange County's policy. In New York, police and civilians may use deadly physical force if they reasonably believe that someone is about to use lethal force, but police don't have a duty to

retreat, Hoovler said.

For police-involved shooting cases, two questions must be answered, Hoovler said.

One: did the officer reasonably believe that the use of deadly force was necessary? Two: would another officer of similar experience and situation, knowing the same situation and information, reasonable believe the use of lethal force was necessary?

If the answers to both questions are yes, Hoovler said, the action is justified under state law.

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