

# Looking back at the Theodore Kowalzek standoff

March 23, 2011

On December 31<sup>st</sup>, 2009, a hazy sun rose over Ham Lake, Minnesota. At 17717 Concord Drive, an armored vehicle was punching holes into the walls of the nondescript yellow house that stood on the property. By 7:45 that morning, police had found the body of the home's owner – 70 year-old Theodore Kowalzek. His corpse was discovered under a pile of rubble, with blood spattered across his jeans and work boots. Nearby lay a MAK-90 rifle and several spent shells. Down an adjoining hall, the carcass of an Anoka County police dog was sprawled across the floor.

Kowalzek had been a local character – well known in the area for riding his green John Deere tractor to area bars, where he was a regular presence. Kowalzek was also well known to local law enforcement, and had an extensive record of police visits to his property for infractions ranging from trash-burning to alleged weapons discharges.

Theodore Kowalzek died during a standoff with Anoka County Sheriff's deputies at the end of 2009. Over a year later, new interviews and documents paint a picture of the complex dynamics that led to gunfire on that cold winter evening.

## **Ted Kowalzek's world**

Hunter's Inn sits off of Highway 65 in East Bethel, Minnesota - a formerly rural township on the edge of the metro area. The inn was a frequent haunt of Ted Kowalzek, and his daughter Marie Kinsey tended bar there until recently.

“He loved to tell stories,” Marie says of her father. “Some of them were a little over-exaggerated,” she says with a laugh.

Chris Kinsey, Marie's husband, characterizes Ted as a hard drinking but good-natured former diesel mechanic who whiled away hours at local beer joints, flirting with the waitresses and chatting up friends. Photos provided

by the Kinseys show Ted at rest with family – at picnics, and mixing with family members at holiday gatherings. “He had just been to a Christmas party up at the family place,” says Chris, pointing to a photo of Kowalzek surrounded by relatives.

“We lived across from each other for years without any problems,” recalled long-time neighbor Robert Lindsay. “He was a fine guy when he was sober.” Lindsay added that Kowalzek would get “mean” when he was drinking, and tended to attract a lot of attention from law enforcement.

Police reports from 2002 on show over two dozen incidents at the Kowalzek property - calls for disturbing the peace, residential noise complaints, a grass fire, two reports of weapons discharges, and several others. In both of the discharge incidents, responding officers did not identify a shooter, and left after filing incident reports.

### **Housing Craig Rickhoff and Jessica Ness**

For years, Ted Kowalzek’s property had been utilized by a rotating group of friends and relatives. Among this group was Thomas Ableman, who had stayed at Kowalzek’s house for five years – up to and through the day of the shooting incident.

One month prior to the shooting, two other roomers departed from Kowalzek’s property – roomers who would play central roles in the events of Dec 30th, 2009.

Craig Rickhoff had known Ted Kowalzek for over a decade when Kowalzek offered him a place to stay in the spring of 2009. Rickhoff moved into the Concord Drive house with his girlfriend Jessica Ness and their four-year-old daughter. However, the situation soon turned sour, according to individuals close to Kowalzek.

In December of 2009, Thomas Ableman told police investigators that Rickhoff and Ness had turned a short-term commitment into a months-long stay, rent-free. The Kinseys likewise claimed that Rickhoff and Ness were “freeloading,” and that near the end of their stay, disputes had arisen over money and other domestic issues. Said Chris, “They’d come upstairs and drink his beer ... freeload off his refrigerator ... he put up with a lot until they pushed him really far enough.”

### **False child abuse report**

One of the things that pushed Kowalzek “far enough” according to the Kinseys was the fact that Jessica Ness’ mother contacted Anoka County authorities and claimed that Kowalzek had sexually molested Ness’s daughter.

Paperwork from the Anoka County Sheriff’s Office indicates that a sex crime report was filed on November 4<sup>th</sup>, 2009, but that by November 18<sup>th</sup> detectives had determined that the allegations were unfounded.

In police interviews conducted on Dec 30<sup>th</sup>, 2009, Ableman, Ness, and Rickhoff all identified the allegations as a source of extreme consternation for Kowalzek. Jessica Ness told Anoka County Detective Wendy Lehner that Kowalzek was angry over the allegations, and that the incident led Kowalzek to kick her and her boyfriend out of the house.

Michelle Applegate, a friend of Jessica Ness, also made note of the molestation allegations when interviewed by police that same day:

“So they were false allegations?” asked Detective Lehner. “Yes,” Applegate said. “And did that seem to piss Mister Kowalzek off?” asked Lehner. “Yeah,” replied Applegate. “That’s putting it mildly.”

### **Retrieving the first vehicle**

After Ness and Rickoff were expelled from Ted Kowalzek’s property, several items belonging to the couple remained at the house, including two vehicles. Accounts differ as to Kowalzek’s intentions regarding these belongings. In her police interview, Ness set out her belief that Kowalzek was punishing her for the false molestation report, and she claimed that he ultimately planned to junk the vehicles in reprisal. Chris Kinsey said that Kowalzek was holding the vehicles as collateral for money that he believed Ness and Rickoff owed him.

On December 28<sup>th</sup>, Jessica Ness called the Anoka County Sheriff’s Office to request a deputy to accompany her to 17717 Concord Drive in order to recover a fish tank, a computer, and the two vehicles. She told Anoka County Sheriff’s Deputy Zimmer that she needed an escort, since Kowalzek

had made threats against her when she had previously tried to retrieve her belongings.

Zimmer, Ness, and Rickhoff arrived at Kowalzek's house with a towing service, which removed one vehicle. The service was unable to remove the second vehicle, so Ness told the deputy that she would return the following day. In his police report, Zimmer noted that "I could see Theodore Kowalzek, Sr. inside the house, however he refused to come to the door."

### **Retrieving the second vehicle**

On December 30<sup>th</sup>, Jessica Ness placed another call to the sheriff's office for a domestic escort. Deputy Travis Bolles met Ness, Rickhoff, and Michelle Applegate at Soderquist's Market on Highway 65. Ness told Deputy Bolles that there had been "problems" between herself and Kowalzek, and that she needed an escort due to the fact that Kowalzek kept guns in the house.

The three arrived at Kowalzek's residence in the late afternoon. Deputy Bolles knocked on the door of the house several times, but did not receive a response after several minutes. He then returned to his squad and filled out paperwork while the others waited for the arrival of the tow truck.

### **A shot is fired**

A truck from the Highway 10 Mobil station showed up shortly after 5:00 pm, and driver Eric Dennis started to prepare the remaining vehicle for removal. Suddenly, a single gunshot rang out.

In his report, Deputy Bolles stated that the sound was "extremely loud" and seemed to have come from a rifle or shotgun discharge outside of the house. He noted that he was unable to determine where the shot came from, and saw no damage caused by the bullet.

Similarly, tow truck driver Eric Dennis stated that he heard a door open, followed by the crack of a gun. "It scared the shit out of me," he told police. Dennis couldn't see any bullet impact, and felt that someone "probably ... popped one off into the air."

Immediately, Deputy Bolles directed the others to leave the area, and called for back up. He used his AR-15 rifle to cover the east side of the house while he waited for other squads to arrive. According to Bolles' report, the

entire time he waited, he never saw any movement inside or outside of the house.

By 5:09 pm, uniformed squad cars were en route to the Kowalzek property. At approximately 5:45, the Anoka County Sheriff's Office called out its SWAT team to respond to the incident unfolding at 17717 Concord Drive.

Asked about Kowalzek's alleged behavior, Chris Kinsey said that Ted would "absolutely not" have shot at someone, but that it was very much like him to fire off a gun on his property.

### **Ableman arrives**

Outside of Kowalzek's residence, Deputy Bolles saw a maroon pick-up truck driving up a long, wooded drive toward the house. Bolles stopped the vehicle, and the driver identified himself as Tom Ableman. Ableman told Bolles that he stayed at the house on occasion, and was coming back to collect some tools. According to Bolles, "he also advised that Kowalzek was an alcoholic and kept a lot of loaded firearms inside the house." Ableman stated that when he had left the house at 4:30pm, Kowalzek was intoxicated.

Deputy Bolles asked to use Ableman's cell phone to try to contact Kowalzek directly. "Maybe," he thought, "if Mr. Kowalzek had caller I.D. he would answer a phone number he recognized."

As Bolles suspected, Kowalzek picked up the phone. In his report, Deputy Bowles summarized his exchange with Kowalzek: "At 1756 hours I made contact with Teddy Kowalzek ... He was very agitated and yelling at me on the phone and asking me why there were police in his yard and why they were helping his ex-roommates who owe him money."

Bolles noted that the phone call went on for "several minutes," with Kowalzek alternately talking to him calmly, and then yelling. "He also yelled about some kind of criminal sexual activity he was accused of and stated that he didn't do it." At some point in the conversation, Bolles noted that Kowalzek told him that he "wouldn't go down without a fight," but then calmed down again. Deputy Bolles kept the phone line open until the arrival of the Anoka County SWAT team.

### **Ness interviewed by police**

Anoka County Sheriff's deputies and local police began arriving shortly after 5:15. Some took up perimeter positions around the Kowalzek residence. Others began interviewing those present when the single shot was fired around 5:00 pm.

At 5:56, Anoka County Detective Wendy Lehner interviewed Jessica Ness about the events that led up to the gunshot. Ness expanded on her previous statements regarding the threats made by Kowalzek. She told Lehner that Kowalzek said they "wouldn't make it up the driveway" if they came to get the vehicles. She also said that Kowalzek told her stepson that he would "blow his head off."

In her post-incident report, Lehner stated that Jessica Ness gave her a verbal description of Ted Kowalzek's home interior, including the location of his gun cabinet. Lehner also noted that Ness, "went on to state that there is a bunker in the basement" across from the front door, so that, "if he took cover in the bunker he would have direct aim at anyone who enters the door."

Kowalzek's daughter Marie Kinsey gave a different characterization of the area that Jessica called a bunker. "It was a storm shelter in the basement," said Marie. "It's about ten feet long, concrete. At the time it had a toilet and shower in it."

Shortly after Ness was interviewed by police, the characterization of the basement cellar as a "bunker" was passed on to other responding squads, as well as to the SWAT team then en route.

A printout of radio communications contains multiple references to the "bunker" details. Recordings of police radio traffic contain the voice of a responding officer who relates that, "They have a bunker in the basement with cement blocks. That's where they hide."

### **SWAT arrives on scene**

At approximately 6:00 pm, the Anoka County Sheriff's Department SWAT team arrived with its armored "Peacekeeper" vehicle. Several of the SWAT team members had been out to calls at Kowalzek's house in prior years as uniformed officers, including sergeants Tim Day and Brent Erickson. Both Day and Erickson would eventually comprise members of the tactical team that would be sent to apprehend Kowalzek.

After the SWAT team arrived and established positions, orders were broadcast over the Peacekeeper's PA system directing Kowalzek to exit the house. In short order, Kowalzek did just this.

According to Sergeant Tim Day, "the deputies that were around the armored vehicle gave him verbal commands. 'Come out with your hands up.' He turned around, slammed the door in our faces, and went back inside the house without saying a word."

By this time, police reports indicate that Deputy Bolles had turned over Tom Ableman's cell phone to SWAT team negotiator Bruce Hatton. Hatton continued to attempt to contact Kowalzek, but to no avail. According to Deputy Bolles "At some point the communication was terminated, or at least the open line was terminated."

The police incident history indicates that the SWAT team initially planned to use 12-gauge "less-lethal" munitions if Kowalzek came out of the house again. Such beanbag-type rounds are frequently used to subdue unruly suspects.

Recordings of police radio traffic indicate that the SWAT team also had a K9 unit standing by. A voice on the recording states, "We have a K9 up by the SWAT vehicle. If he comes out, do not run or make any sudden movements."

By 7:30 pm Kowalzek had neither exited the house nor communicated with the SWAT negotiator. The SWAT team then began making preparations to fire tear gas (CS) canisters into Kowalzek's house, in order to force him out of the structure. Tom Ableman recalled that he was led away from the house by Anoka County deputies at around this time.

### **Gas deployment**

Kowalzek's neighbor Robert Lindsay noted that by mid-evening, he saw flashes on Kowalzek's porch, and heard the sound of firearm discharges. "I stopped counting at forty shots," said Lindsay.

Radio recordings indicate that the SWAT team began their assault by shooting 12-gauge beanbag rounds into the front of Kowalzek's house. After-action reports indicate that the Anoka County SWAT team began firing CS canisters into the house at roughly 7:50 pm.

Marie Kinsey heard about the standoff from her daughter, via a friend with a police scanner. Once she learned that the SWAT team was shooting tear gas into her father's house, she called the Anoka County Sheriff's Office. Marie spoke with sheriff's department personnel, and made a plea to come to the scene so she could communicate with Kowalzek. "Let me come over and talk to him," she recalls saying, "I can get him to come down." According to Kinsey, her request was put off in lieu of another strategy that the department was trying.

At 8:30 pm, Anoka County SWAT fired another volley of gas canisters into the building. After this second round, police reports describe Kowalzek's movements in the house as changing from "walking" to "crawling," but he still did not exit the structure.

Shortly after the second gas volley occurred, Marie Kinsey called the sheriff's office back to make another attempt to communicate with Kowalzek. "Does your father have a gas mask?" asked a voice on the other end of the line. "What?" exclaimed Marie. "No!"

Captain Tom Wells noted in his after-action report that "The amount of gas that was deployed into the house should have had some effect on the occupant. Since it was not believed that he had a gas mask, a possibility was that he did have some fresh air source that he was utilizing."

Kowalzek's former roommate Tom Ableman disputed the notion that such an air source existed in the house. He also noted that Kowalzek suffered from severe emphysema, and doubted that he could have withstood the gas assault. Ableman said that when he went to the house sixteen hours after the raid, the effect of the residual chemicals was so powerful that he "wanted to tear his skin off."

### **Trying to reach Kowalzek**

Marie Kinsey and her son Matthew decided to go directly to the site of the standoff to try to talk with the SWAT negotiation team. At this same time, more of Kowalzek's relatives were calling the sheriff's office and attempting to intervene in the situation.

The police incident history shows a call from Kowalzek's daughter Carol Mattson, noting that she "wants a call before 'snipers' storm the house."

Recordings of radio traffic indicate that the SWAT team was being apprised of calls from at least two of Kowalzek's daughters.

All the while, Chris Kinsey was at his house, trying to call Ted Kowalzek directly. "I tried to call half a dozen times," said Chris, "and I could no longer get through. No dial, no ring tone, nothing."

By her reckoning, Marie Kinsey arrived at the standoff perimeter at approximately 10:15 pm. Her son Matthew approached Anoka County deputies to see if he could talk to the hostage negotiator. Instead, deputies insisted that the pair move back to the incident command post that had been established at Central United Methodist Church.

From the church parking lot, Marie Kinsey continued to call the house, hoping to reach Ted. According to Marie, an Anoka County deputy approached her car and ordered her to stop calling Kowalzek. "They said that if I continued to call, they would arrest me," she said. "Then they kicked us out of the church parking lot because they were bringing in a helicopter."

Radio recordings relate a conversation between police about the Kinsey family's presence in the parking lot, and its impact on the impending arrival of a medical chopper. "Is there somewhere you want to move the family prior to the helicopter coming in?" one officer asks. "You guys can handle that," another responds.

### **The entry**

The night of December 30<sup>th</sup>, 2009 was exceedingly cold, with temperatures dipping well below zero. In his after-action report, incident commander Tom Wells noted that deputies were getting worn-out by the low temperatures, and had to be rotated frequently.

At 11:30 pm, deputies shot a last volley of gas into Kowalzek's residence. Despite firing over 50 canisters of CS gas into the residence, the deployment had failed as a tactical measure – Kowalzek still had not exited from the house.

Prior to the third gas volley, reports indicate that tactical commanders had made a decision to try to apprehend Kowalzek by using a K-9 unit, leaving SWAT officers on the outside of the house. Sergeant Tim Day was assigned to a five-man team, which was to approach the home's front door with the

K-9. They would lie in wait while a second team caused a distraction by shattering a back window.

Police reports state that the teams moved out at approximately 11:45 pm. Deputy Darsow broke out the back window. Sergeant Erickson punched a ram into the front door, breaking it open. Deputy Psyck released Rocky, his K-9 unit, into the house interior.

In a December 31<sup>st</sup> BCA interview, Sergeant Day's detailed his observations about what occurred immediately thereafter. From his vantage point, Day said that he saw Rocky run down the main hall, look right, and then turn sharply left, effectively passing out of his sight.

Moments later, he heard three closely grouped shots, and then a squeal. Day pulled back to take cover behind a corner of the house. Day stated, "As I was looking in the doorway, I observed a male turn from where the dog had just gone down. He turned, and it appeared that he had a long rifle." Day then continued, "I saw the weapon, and that weapon was starting to come up pointing towards me. I felt that he could shoot me. He could shoot my team members."

Sergeant Day's interview indicates that he fired a three round burst from his automatic rifle, which cut through a corner of the house. At the time, he could not determine whether he had hit his intended target, but he saw Kowalzek react and retreat around a corner.

After Kowalzek went deeper into the house, reports indicate that the SWAT team's Sergeant Pilz said, "Guys, we've got to back out of here." A decision was then made to pull the team away from the house. Sergeant Day was immediately relieved and debriefed. Tactical commanders called for SWAT back up from other agencies, including the State Patrol. In keeping with the earlier plan, they also decided not to enter the residence in pursuit of Kowalzek.

### **The standoff ends**

As new SWAT members rotated in, Anoka County commanders kept officers on the perimeter, observing what goings-on could be seen in the home. One police report indicates that as late as 2:30 am, some officers could still see movement inside the house.

At that time, Anoka County commanders placed a call to the Bloomington Police Department to get access to their armored "Attack Cat."

Bloomington's Attack Cat is an armored SWAT vehicle with an articulated arm and remote video-viewing capabilities. A plan was developed to use the Attack Cat to demolish portions of the house, and peer inside to get a look at Kowalzek's condition and location. The procurement and delivery of the Attack Cat took roughly three and-a-half hours, with demolition beginning about 6:00 am.

At roughly 7:45 am, Kowalzek's body was located by the Attack Cat's operator. "I'm knocking stuff down on top of him," the operator noted as he attempted to remove the vehicle's arm from the structure. "I'm going to try to bring this thing back so I can get a good visual on his head."

A team of SWAT officers then advanced into the house under cover of the armored vehicle. A State Patrol officer came upon Kowalzek's body, partially buried under rubble created by the Attack Cat. In his report, the patrol officer noted that he could "see that the subject was deceased; it looked like he had been dead for some time."

### **Kowalzek's death**

According to the preliminary autopsy report conducted by Dr. Quinn Strobl, Theodore Kowalzek died from blood loss associated with multiple gunshot wounds. The final autopsy report notes that these wounds were located on the abdomen, the right arm, and the right hand. The .223 rounds that hit Kowalzek did not strike major organs, but passed through soft tissues, and fractured hand and arm bones.

The final autopsy report notes that the time of death was 7:51 am. Notations on the report indicate that this was the time when the body was first found. An inquiry to the Midwest Medical Examiner's Office revealed that the office routinely lists "time found" on autopsy reports, rather than an estimated range for the time of death.

The Kinseys maintain that when they spoke with the office, they were told that the time of death was likely between 11:00 pm and midnight. The Midwest Medical Examiner's office did not return a call for corroboration of this claim.

## **Looking back**

On December 31st, 2009, the Anoka County Sheriff's Office asked the Minnesota Bureau of Criminal Apprehension (BCA) to conduct an investigation into the Kowalzek shooting. The investigation was undertaken by Special Agent Drew Evans. Evans noted that it is typical for the BCA to take the lead in such officer-involved shooting cases. "A criminal investigation is conducted first," he said, "and then the agency may conduct a separate internal affairs investigation at another time."

By early spring, Evans' investigation into the shooting was complete, and his findings were presented to the Anoka County Attorney's Office. Anoka County subsequently declined to file charges against Sergeant Tim Day, noting that Day acted in compliance with Minnesota statutes governing the use of deadly force. Evans closed the case on May 12, 2010.

For its part, the Kinsey family is critical of the way the incident was handled. "What happened to trying to get the family members to talk him down?" Chris asks, "Instead of calling the SWAT team, and the dogs, and the tear gas?"

Kowalzek's neighbor Robert Lindsay voices similar criticisms. "All they had to do was wait," says Lindsay. "Why do all this for a seventy-year-old-man holed up in his house?"

## **The aftermath**

At 17717 Concord Drive, Theodore Kowalzek's house has been rebuilt, but the estate is currently entangled in legal disputes. Gently melting snow fills the driveway, and covers Kowalzek's former outbuildings.

According to the Kinseys, Jessica Ness and Craig Rickhoff left the state of Minnesota in early 2010, shortly after the shooting incident occurred.

Rocky, the Anoka County K9 who was killed during the December 30th standoff, is being commemorated as part of a memorial for fallen Anoka County police officers. The memorial is being underwritten by individual donations, and fundraising continues at present.

With the closure of the BCA investigation and the declination of charges by Anoka County, the formal paperwork trail is at an end. The BCA's investigative file includes several reports with an air of finality to them, such

as Detective Lapham's report on the criminal allegations made against Kowalzek. On its last page, the report states that "The initial case of terroristic threats against Theodore Kowalzek will be closed and declared exceptionally cleared due to the defendant being deceased."