

“There’s an anger and fury that builds up inside”

How one man’s life devolved from the council chambers to a jail cell



Oshawa Express file photos

Former councillor Robert Lutzky, seen here during his days on council, at one time had 100 per cent of his wages as a councillor garnished to pay back his creditors. Typically, only 25 per cent of a person’s pay can be garnished, but following a legal opinion presented by city solicitor David Potts, that number was bumped up, according to court records. This, along with a 2005 court decision over fines on an apartment building he operated, led to the former councillor seeking revenge on the city solicitor, which erupted into the kidnapping and stand off in October 2012.



After Lutzky kidnapped Potts from his Courtice home, he took him to an industrial unit in Whitby filled with guns, ammo, an armoured van and the materials needed to make a bomb. While Potts was able to escape, Lutzky stood off with the police for nearly 27 hours before surrendering.



Superintendent Brian Osborne of Durham police addresses the media following the conclusion of their long standoff with Lutzky. Following his standoff, Lutzky would soon be taken to Lindsay’s Central East Correctional Centre, where he would spend the next three-plus years of his life, including one of those years in solitary confinement as per his request. With the frustration of preparing for his trial without a lawyer and continued denials for release, Lutzky lashed out, having run ins with the prison’s guards.

By Joel Wittnebel
The Oshawa Express

This story is the culmination of more than three years of reporting by The Oshawa Express. Beginning on the night of the 2012 kidnapping, throughout the 27-hour standoff and ending with Lutzky’s final sentencing on Feb. 26, 2016.

Through the more than three years of court dates, The Express has been present for many pre-trial hearings.

Details for this story were gathered during those dates, along with information shared in the agreed statement of facts, court documents, victim impact statements and the words of Crown Attorney Ngai On Young, lawyer Chris Murphy and Robert Lutzky himself.

October 17, 2012 - sometime before 6 a.m.

It was approaching dawn, flashing blue and red lights splashed colour on the wall of an indescrpt industrial unit in Whitby.

Inside, one man sat surrounded by guns, thousands of rounds of ammunition, an armoured van and all the materials needed to build a bomb. The kidnapping plot he’d attempted to undertake the day before had failed.

“I deviated from the plan and it all went wrong,” the man says, speaking to his wife on his cellphone.

The man’s body, more accustomed to the fit of a suit, is clad in body armour and sweat after nearly 27 hours spent inside the warehouse surrounded by police.

Again, he speaks into the cellphone in his hand. This time, on the other end, a police negotiator listens to the man who, hours before, told them he had a bomb and to stay away.

“When they see what I have in here they will put me away forever,” the man says.

There’s little negotiating left to do, and the man knows he has no choice. The police have told him they understand his situation and they just want to resolve things in a way that nobody gets hurt.

He’s had problems, the man says – serious problems that nobody understands.

The officer says that he does understand, life can be hard. Again, the man says nobody can understand.

“There’s an anger and a fury that builds up inside,” he says.

Defeated, Robert Lutzky, who spent years representing citizens of Oshawa at city hall, teaching under-privileged kids and serving his country as a lieutenant in the Canadian military, walked from the industrial unit and surrendered to police.

Before becoming notorious for kidnapping Oshawa city solicitor David Potts in 2012 and the ensuing legal frenzy that lasted more than three years, Robert Lutzky was a respected community official. A hard working civil servant known for his passionate, albeit somewhat unorthodox, reputation.

Born in Toronto, Lutzky studied urban planning at Carleton University, and soon after graduation, returned to the GTA to work in Oshawa’s planning department. In 1991, at the age of 24, he ran an unsuccessful bid to become mayor. Three years later, he would lower his sights and win a councillor’s seat.

Lutzky spent his first term quietly warming his seat in the council chambers with work on downtown revitalization and efforts with Habitat for Humanity. In 1997, the city shuffled its ward boundaries and Lutzky lost his seat. He would remain out of politics for the next six years.

In 2003, after working as a teacher and developer to support himself, Lutzky returned to the political arena, and he brought with him six years worth of wild ideas.

These wild ideas, which many times had him gesturing madly and pontificating loudly in the council chambers, started to make headlines.

In 2004, Lutzky suggested that Oshawa should look into the possibility of annexing the nation of Turks and Caicos in the Caribbean.

A year later, Lutzky would get into a verbal spat with fellow councillor John Neal, who in a letter to local newspapers, had used the name University of Ontario Institute of Technology.

Lutzky had filed a copyright on the name, claiming he owned the rights to it because he was the first person to come up with the idea for a university in Oshawa. UOIT was established in 2002.

He demanded Neal resign. It didn’t happen. A year later, the storm started to build.

It was a small indiscretion, but one that the passionate Lutzky fought until the bitter end. It had him butting heads with the city’s legal department and city lawyer David Potts, the man he would kidnap at gunpoint seven years later.

Lutzky operated an apartment building owned by his aging

father. In 2005, the city’s bylaw department, working off complaints from the public, cited him for operating an illegal rooming house.

It was Potts who reviewed the bylaw department’s investigation and made the determination that there was enough evidence to level a fine.

Lutzky fought the charge all the way to the Ontario Court of Appeal, but eventually lost and was forced to pay the \$1,000 fine.

On the surface, the small legal wrangling didn’t seem like much. However, to Lutzky, this is where it all started.

In 2009, Lutzky found himself in the headlines again with a raucous campaign to bring the band KISS to Oshawa via an online contest.

The rock group eventually played a gig at the General Motors Centre.

The same year, Lutzky and Potts clashed again.

Facing debt issues, garnishment proceedings were initiated by Lutzky’s creditors who, in court, sought any money the city would pay to the councillor to cover his debts.

According to federal law, creditors can only garnish 25 per cent of a person’s wages. However, according to city bylaws, councillors are not employees and therefore the remuneration they receive can not be considered wages. This was Potts’s legal analysis and it led to all of Lutzky’s wages, as both a city and regional councillor, being garnished by creditors, according to statements read in court.

In 2010, despite garnering more than 7,000 votes in the municipal election, Lutzky would once again lose his seat in the council chambers.

The storm was starting to gain momentum, and over the next two years, the anger would only build, as Lutzky slipped further into debt. It was estimated by prosecutors that, at the time, Lutzky owed hundreds of thousands of dollars.

The debt and troubles with work translated into trouble at home, where the relationship with his wife had started to slip.

Finally, the storm grew too large to contain. The date was Oct. 15, 2012

October 15, 2012 - approximately 11 p.m.

It was an uneventful, yet lengthy, council meeting. It allowed David Potts time to text his wife Maureen. The two were excited to see one another after a long day.

It was a cool fall night as Potts pulled into the driveway of his Courtice home at around 11 p.m.

At first, as the large Yukon truck pulled into the driveway behind him, Potts didn’t think anything of it. Perhaps it was someone just looking for directions?

It was only as he stepped out and the shadowed figure approached that things started to seem off.

The SUV’s lights were switched off, bathing the approaching figure in darkness. As the shadow moved into the light, the face of Robert Lutzky emerged from the black.

Potts, immediately recognizing his former colleague, greeted him casually, perhaps a little confused at his presence, then the gun was thrust into his ribs.

Confused and scared, Potts made his way to the large SUV at Lutzky’s urging. As he did, the alarm on his car blared into the night as he used his job to alert those inside that something was wrong.

Before Maureen made it to the front door, the driveway was deserted.

The door to her husband’s car stood open, briefly illuminated by the orange lights of the car’s hazards flashing in synch with the alarm.

Maureen knew almost immediately her husband had been taken, and running back into the house, her daughter following behind her; she first called police, then tried David’s cell.

There was no answer, and the worry slowly started to build into panic, the frenzied emotion clear in the words left in the messages on David’s voicemail.

Lutzky has spent the last three and a half years in prison at the Central East Correctional Centre (CECC) in Lindsay.

And for the first year of his imprisonment, Lutzky was focused on one thing: getting out of prison.

“My heart was pounding so hard in my chest, it was like I just ran a marathon,” Lutzky said, describing his first morning waking up behind bars.

Early in his incarceration, Lutzky made several bids for freedom and, in total, was in court for three bail reviews during the pretrial period, all of which were denied.

He also pursued several other legal avenues for release, and used almost every legal tool available to those who believe they have been wronged by the system.

Among them, Lutzky filed a Charter application citing unreasonable delay on bringing his case to trial; he sought a stay of proceedings, claimed a trial judge was biased; he also

tried to have the venue of his trial changed. A trio of mandamus applications were also filed by Lutczyk. These legal tools are used to try and force a court into action.

Lutczyk also attempted to run for municipal election in 2014, but failed to register in time.

The former councillor also put forward a habeas corpus application, used by those seeking release who believe their imprisonment is unlawful.

None of these applications were successful and Lutczyk remained at CCEC, where he spent more than a year of his pretrial limbo in solitary confinement. His isolation was upon his request, fearing what would happen if he were put with the general population.

Without human contact, Lutczyk says interaction was found elsewhere. Fruit flies in his cell became friends, and the birds outside became familiar.

"They were there to engage me," he says of the crows, who, over time, have learned that inmates can be a source of food "Once they see an orange clad figure, they start squawking."

However, as the days wore on, the world started to fade away. "My nervous system was attacking my mind," he says. "The days are just starting to melt into each other."

Through most of the process, Lutczyk represented himself, and therefore was allowed time during his stay at CCEC to review the disclosure of his case and prepare for his impending trial. According to him, the process was fraught with flaws.

Computers that didn't work or were password protected, DVDs that didn't work, and no supplies to write with, noting he had to sharpen a single pencil with his fingernails and teeth in order to make notes.

With the constant frustration in preparing for trial, as well as his continued denials for release, Lutczyk had his first run in with the CCEC guards, just past his first anniversary in prison.

Handcuffed and being led to another cell, Lutczyk refused to enter. The tiny room was filthy and the floor of the shower stall was slick with mould.

Describing the incident, Lutczyk says the guard pushed the handcuffs painfully down into his wrists, so he did the only thing he could with his hands behind his back.

"I grabbed his finger and I squished it," he says. "After that issue, there's more tension between me and the guards evolving."

October 15, 2012 - sometime around midnight

David was hauled out of the large SUV and led into an industrial unit in Whitby.

The entire drive to the Hopkins Street facility, Lutczyk kept his right hand on the wheel and his other, holding the gun, trained at David's midsection.

With each word, Lutczyk says, David's fear and anger continues to grow.

The man had been waiting outside his home for hours. He watched Maureen enter the house around 10 p.m. as she got home from work. Lutczyk detailed his financial ruin, his personal crises. He demanded David's cellphone.

Inside the unit, his hands bound with plastic ties, David is forced on to a stool beneath a single bright bulb hanging from the ceiling.

The large unit is dominated by a white cube van. Propane tanks and other mechanical equipment are scattered around the space.

The frantic voices of Maureen and David's daughter echoed around the room. David stared at the satisfied look on Lutczyk's face as he played the messages from David's phone.

He swallowed his anger, his fear, and thought about his wife, his family. He figured he would never see them again. As Lutczyk returned from the van, standing in front of Potts with the gun dangling at his side, David looked up at him, then offered his forgiveness for what Lutczyk had done.

His captor looked stunned. Then he looked away, mumbling something. It sounded like he said things may have "gone too far."

Looking to deescalate the situation further, David held out his hands, the ties were rubbing painfully into his wrists. Lutczyk removed them.

David took the situation a step further and was able to convince Lutczyk to leave the unit to get something to eat at a nearby Tim Hortons drive thru.

Once outside the unit, David vowed regardless of what happened, he would never go back inside.

Several times during the pretrial period, Lutczyk attempted to get help with his case.

When legal aid was denied, he filed a Rowbotham application, which is used to obtain funding by those who don't qualify for legal aid, but are facing serious charges unrepresented. The application was denied. The judge cited Lutczyk had failed to disclose the sale of a pair of properties in Oshawa, the funds from which could have been used for counsel.

"The credibility of this applicant is an issue," Justice Cory Gilmore said at the time.

With the latest denial, Lutczyk continued to prepare for his trial solo from CCEC. Occasionally, he would be visited by an amicus (friend of the court) who would provide assistance. The amicus, a Toronto-based lawyer, Chris Murphy, would be present to assist Lutczyk during his court appearances.

However, the issues at CCEC persisted, including an incident caught on security cameras where Lutczyk and the guards got into a scum after Lutczyk is said to have attacked a guard with a dinner tray, something he denies.

Then, after more than two years, a trial date was finally set for January 2015. A 10-day period was set for pretrial motions before a

Jan. 26 start.

However, following the theme of Lutczyk's legal saga, it became evident that this January date wouldn't happen.

"It's looking like that's going to be a fairy tale," said Justice Hugh O'Connell at the time.

The pretrial motions, originally slated for 10 days, lasted six months, followed by the legal proceedings for Lutczyk's aforementioned Charter application and other legal pursuits.

In the summer of 2015, the incidents spilled over into behind the scenes altercations at the Durham Region Courthouse where Lutczyk claims he was assaulted by OPP officers and special constables in the holding cells.

The Crown eventually dropped the charges put forward by Lutczyk, citing not enough evidence to proceed.

It wasn't until October of 2015 that Lutczyk would see an approval from the justice system. Upon a second Rowbotham application, this time filed by Murphy, Lutczyk's amicus, Justice O'Connell okayed the application and Murphy moved from amicus to Lutczyk's counsel.

Just over a month later, Lutczyk would enter a guilty plea.

October 16, 2012 - between 1 and 2 a.m.

David waited for his moment.

He knew he would only get one chance to escape. Akin to their first trip to Whitby, Lutczyk drove with his one hand on the wheel, the other holding the gun aimed at David's chest.

As the Yukon pulled into the drive-thru, David prepared for Lutczyk to turn to place the order, his fingers twitching toward the seat belt buckle. However, Lutczyk kept his eyes forward, not turning toward the open window.

The car pulled forward, and now, David knew this was the moment. Lutczyk would most certainly have to turn to pick up the food.

As the truck stopped at the pick-up window, both men froze. The only movement was their eyes as they followed the progress of the DRPS cruiser into the parking lot. Then the front seat of the SUV was lit up with white light as the spotlight aimed directly at them.

David only had time to lift his hand in the shape of a gun before Lutczyk slammed his foot to the floor sending the SUV careening forward, over the curb and out on to the street. Barreling down the road, running red lights, David knew where his captor was headed, and he remembered his vow from hours before.

After years of an impending trial, Lutczyk's guilty plea came as a surprise to many, who, like the pretrial saga before, expected a lengthy trial.

However, Murphy says obtaining representation changed a lot for Lutczyk.

"It has always been my position, obviously, that (representation is) required in this case because of the complexity of the case and the various issues that arose," Murphy said at the time.

Already familiar with the case through his role as amicus, Murphy's appointment was clearly the catalyst for the plea, but he says there was more than that.

"It was at that point he had counsel for the first time and was able to essentially obtain legal advice on this," he said. "Ultimately, I think Mr. Lutczyk just wanted to accept responsibility for what he had done and he did that."

It would take almost three more months before Lutczyk would hear his fate.

October 16, 2012 - early morning hours

The SUV slammed through the metal gates on Hopkins Street, the police cruisers' blaring sirens already pulling in behind them.

Running from the driver's side, Lutczyk hauled David from the car, holding the gun to his head and placing him between the police and himself.

Lutczyk scoffed at the police's continued shouts to drop the gun and release his hostage.

Pulling him in an awkward stutter step, David knew Lutczyk wanted to get him back inside the unit.

The cops continued to yell, their guns trained on the two men, the red dots painting David's chest. As they slowly headed towards the warehouse door, David made his move.

Dropping to the ground, Lutczyk immediately made a frantic dash behind him, trying to maintain his human shield. The two men wrestled on the concrete and Lutczyk attempted to drag David through the doors. David fought and Lutczyk gave up. He disappeared into the unit and David ran toward the lights of the police.

Lutczyk would remain inside for nearly 27 hours, speaking to his wife and several others on his cellphone.

He would request safe passage out of Whitby, and for all possible criminal charges against him to be forgotten.

He would accept the inevitable

He would surrender.

David, after giving his statement to police, would be back at city hall for work the next morning.



Following more than three years in prison and legal wranglings ahead of his trial, Lutczyk entered a guilty plea in December for the October 2012 kidnapping. The former councillor was given an eight-year, four-month prison term by Justice Alex Sosna. With credit for time served, Lutczyk will serve three years and four months. Speaking with the media after the conclusion of the final sentencing hearing, Potts said he accepted Lutczyk's apology and that he and his wife have moved on with their lives.

The final legal question was time.

With years of it already spent in pretrial wrangling, the Crown was pushing for a 10-year sentence, while Murphy was seeking a lesser term of eight years.

During the sentencing hearing, Maureen had her chance to address Lutczyk, and the courts, for the first time, detailing the impact that night had on her family, describing it as "the most terrifying nightmare that one could inflict on a family."

"Mr Lutczyk's unimaginable cruelty found its mark and continues to haunt," Maureen said. "Never has Mr. Lutczyk expressed anything resembling remorse for his planned and outrageous attack on our family."

Hearing her words, Lutczyk sat calmly in his seat at the front of the courtroom, staring at the wall in front of him, occasionally glancing at his hands. At the end of the first day, Feb. 4, as Justice Alex Sosna prepared to close the proceedings before making his final decision weeks later, he gave Lutczyk a chance to speak.

The man, whose thinning hair and gaunt frame is a shadow of the man who occupied a seat in Oshawa council years before, offered an apology.

"I feel I really have to say things from the inside of my core," Lutczyk said. "I'm so deeply sorry that I hurt her and her husband and her children..."

"I'm just sorry for it all... I truly hope you can find it in your hearts to forgive me for this."

However, the words were lost on Justice Sosna.

A little more than three weeks later, Sosna would describe Lutczyk's apology as "hollow and disingenuous."

The judge ordered Lutczyk to stand, and in what seemed like only seconds before handing down a 10-year sentence, Murphy bolted to his feet and urged the judge to stop, stating that, as it stood, the sentence was a "significant departure" from previous discussions between the Crown, himself and the judge.

"The sentence you are about to impose is not in accordance with those discussions," Murphy said.

Meaning, if Sosna had been given a few more seconds to speak, Lutczyk would have spent an additional two years in jail.

Crown attorney Ngai On Young and Murphy had previously agreed that Lutczyk would be given additional credit for his time served, above and beyond the legislated 1.5 days for every day served in pretrial custody. They submitted two days for every day served should be given to Lutczyk due to his rocky stay at CCEC

However, Sosna found no precedent or reason for giving Lutczyk the additional credit.

"It would be an error," he said of such a decision.

Murphy pressed on and was able to persuade Sosna for additional time to speak with Young. The pair returned with a joint submission that Lutczyk's sentence should be eight years and four months. With the credit for time served, Lutczyk would remain in jail for another three years and four months.

It was a sentence Sosna agreed with and imposed.

February 26, 2016

David and Maureen exit the courtroom, and are almost immediately surrounded by media.

Since the preliminary hearing, when David testified about the events of Oct. 15, 2012, the municipal lawyer has kept quiet about the incident.

His response to the verdict was that justice had been served. "Both counsel were working very hard, as was Justice Sosna, and I think the result was just," he said.

When asked how he felt now that the three-year saga was at an end, David said he was relieved, but for him, the issue has been over for years.

The comments of Justice Sosna on Lutczyk's apology were also echoed in the media's questions to David, but he disagreed, saying his family accepted Lutczyk's remorse.

"I accept his apology," he said.

However, he was only reiterating his comments made three years before. Handcuffed and at gunpoint, sitting beneath the bare lightbulb of Lutczyk's doomsday bunker, David had looked at his captor, and forgave him.

"It was over three and a half years ago," David said.