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Press Release

DA's final statement of use of deadly force in Braintree

Contact: D. Traub, 781-830-4917

Norfolk District Attorney Michael W. Morrissey's office has completed the investigation into the March 24, 2016 use of deadly force by the Braintree Police Department, resulting in the fatal wounding of Robert L Dussourd, 44.

The seven-page letter detailing the District Attorney's process and findings, addressed to Braintree Chief of Police Russell Jenkins, is attached.

In that document, District Attorney Morrissey concludes that the evidence collected through interviews of residents within hearing of the incident and involved police, forensic and medical evidence, does not support any finding of criminal responsibility in the police use of deadly force or Mr. Dussourd's resulting death.

Please see the attached letter, which includes white space in the place of information exempt from public release.



The Commonwealth of Massachusetts

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August 3, 2016

Chief Russell W. Jenkins
Braintree Police Department
282 Union Street
Braintree, MA 02184

Dear Chief Jenkins:

This letter addresses my review, findings and conclusions regarding the events of March 24, 2016, in the vicinity of 80 East Division Street in the town of Braintree, resulting in the fatal police officer-involved shooting of Robert Dussourd.

Review

My review comprised the following materials:

- Report by Sgt. Brian Brooks regarding response to shooting;
- The audio and written transcription of [redacted] 911 call;
- The audio and transcription of [redacted] second phone call with Lt. Timothy Cohoon;
- Report by Lt. Gerard Mattaliano regarding his interview of [redacted] (Braintree resident who heard the incident);
- Report by Trooper Scott Kearns regarding interview of [redacted] (Braintree resident who heard the incident on his property. [redacted]).
- Report by Trooper Scott Kearns regarding interview of [redacted], with transcript attached;
- Report by Trooper John Fanning regarding interview of [redacted], with transcript attached;

- Report by Trooper Scott Kearns regarding interview of resident who heard the incident); (Holbrook
- Report by Sgt. Brian Brooks regarding interview of resident who heard the incident); (Holbrook
- Report by Trooper Scott Kearns regarding interview of resident who heard the incident); (Holbrook
- Report by Sgt. Brian Brooks regarding interview of (Holbrook residents who heard the incident);
- Report by Sgt. Brian Brooks regarding interview of (Holbrook resident who heard the incident);
- Report by Trooper Yuri Bukhenik regarding observing the autopsy of Robert Dussourd;
- Report of interview and transcript of William Cushing by Lt. Gerard Mattaliano;
- Report of interview and transcript of Richard Hale by Lt. Gerard Mattaliano;
- Report of interview and transcript of Charles Bata by Lt. Gerard Mattaliano;
- Crime Scene Report 1 by Forensic Scientist Alanna Frederick;
- Photographic documentation of the scene from State Police Crime Scene Services;
- Fingerprint report by Trooper Karrol Setalsingh;
- Firearms Report by MSP Sergeant Steven Walsh;
- Crime Scene report by Trooper Heather Sullivan;
- Report of Investigations by Trooper Christopher Donahue;
- Second Report of Investigations by Trooper Christopher Donahue;
- Crime Scene Report by Trooper Sidney Chambers;
- Medical Examiner's file on Robert Dussourd, including autopsy report, photos, notes, death certificate and records from South Shore Hospital;
- Braintree Police Incident Report 2016000005056, including narratives from Officer Corey Chambers, Lt. Michael Moschella, Lt. Timothy Cohoon, Officer David Clark and Officer Sean Dias;

- Holbrook Police Department report 16HOL2060F, including narratives from John Kearney and Officer Michael Eschner;
- Use of Force guidelines for Braintree Police Department;
- Personnel File for William Cushing;
- Firearms training records for William Cushing;
- K-9 training records for William Cushing;

Findings

From the foregoing materials, a consistent narrative emerges. At 1:28 AM on March 24, 2016 Braintree Police responded to call reporting a domestic disturbance at 1769 Liberty Street. During that initial call, police were informed by the caller that the subject had "a knife on his person." This information was reiterated when police spoke to the reporting party upon their arrival. The caller and subject have two children in common and cohabitated.

After conversation with the reporting party, Sergeant Charles Bata and Officer Richard Hale began to search the immediate area for an armed suspect while several officers from Braintree and Holbrook established a perimeter to prevent the suspect from leaving the area. Officers were additionally advised by the reporting party that the subject was believed to be intoxicated and had made statements that were threatening in nature. The subject was not immediately located.

Officer Hale was armed with a department-issued non-lethal bean bag shotgun at the scene. While the initial search was unfolding, Officer William Cushing, Jr., a trained and experienced K-9 tracking officer, was called to the scene with his police dog, Kitt, to facilitate the search and serve as a potential additional non-lethal method of apprehension.

According to Cushing and Bata, the dog picked up a human scent at 1769 Liberty Street and tracked it to the area of 80 East Division Street at approximately 2 AM. Those officers report observing Mr. Dussourd lying underneath a car parked in the driveway, hiding his right hand from view. Cushing gave three verbal warnings that Dussourd should get out from underneath the car and show his hands or the canine would be used.

Officers report that instead Dussourd refused to comply, stating "fuck you" and "I'm going to kill you." Cushing then told Bata that he was going use Kitt. Before the canine was deployed, Dussourd got up from under the car and attempted to remove something from his

front pocket and/or waist line. Cushing deployed the canine and it bit Dussourd in the right hip and buttocks area.

During this time, officers report giving loud verbal commands for Dussourd to "get on the ground," which is consistent with information gathered in subsequent interviews with neighbors of 80 East Division Street who had been awakened by the noise and activity.

Officers report that Dussourd was brandishing a knife in his right hand. During this time he would threaten the officers and attempt to attack the canine. The presence of Kitt was causing Dussourd to be off balance. Bala observed Cushing push Dussourd to the ground while commanding him to drop the knife. But Dussourd returned to his feet still holding the knife. After failing to comply with verbal commands, the officers reported that Hale took the next progression in the use of force to attempt to have Dussourd comply and fired three non-lethal rounds from the beanbag gun.

Three deployed rounds from the beanbag gun were present and subsequently documented at the scene. From the report of the autopsy, there was injury consistent with the three rounds striking Dussourd in the right side of the abdomen, the lower right back and in the right hand, breaking one of the fingers. Officers report that Dussourd did not drop the knife after these non-lethal rounds.¹ After these three shots and the attack of the canine, Dussourd still did not comply and continued to brandish the knife.

Again the officers ordered Dussourd to drop the knife. Cushing shouted to Bata: "He is going to stab the dog!"

Dussourd then shouted in reply: "Fuck you, I'm going to stab you!"

It was then that Dussourd approached Cushing swinging the knife in what was described as a "windmill" motion. Officers report Dussourd closed on the Cushing, getting to within two to three feet, well within the officer's safety zone, before Cushing fired two rounds from his department-issued weapon, a .40 caliber semi-automatic pistol, to save his own life. Both rounds entered Dussourd's torso. One entered the right side of his chest and would travel through both lungs and two chambers of his heart. The second would enter his right back traveling through his organs, including his liver. Both traveled in a right to left pathway. The Medical Examiner was unable to say which gunshot occurred first.

Dussourd initially still held the knife and briefly staggered after being shot. He then crumpled to the ground. Officer Bata pulled Dussourd to a more open area and Dussourd released his grip on the knife. Braintree officers then began first aid on Dussourd and

¹ Civilian witnesses stated that they heard three shots fired, then after shouting, two more shots fired. The sounds of the shots were different. This could be attributed to the fact the shotgun would make a different sound than **Cushing's service weapon.**

continued until paramedics arrived. Bandage paraphernalia and evidence of medical attention was present and subsequently documented at the scene.

Mr. Dussourd was transported to South Shore Medical Center where he succumbed to his injuries at 3:07 AM. Blood taken from his heart showed an ethanol reading of .15 and taken from the vitreous humor which had an additional ethanol reading of .23. This puts his level of intoxication between twice and three times the presumed level of being too inebriated to operate a motor vehicle.

A large knife was recovered from the scene. This weapon was submitted to the Massachusetts State Police for finger print processing and analysis. While partial prints were present, they lacked sufficient ridge detail for comparison.

No civilian witnesses were outside during the shooting, although neighbors awakened by the commotion, and subsequently interviewed, reported varying degrees of being able to discern the words being shouting and sounds they heard. Of those who could discern the shouting, witnesses reported hearing the officers order Dussourd to drop the knife and Dussourd's threats against the officers.

This eventually led to demand that Dussourd leave the house. witnessed a good deal of this behavior and also told State Police investigators that believed Dussourd had been drinking. Dussourd told that, if police were to arrive, "they can shoot me before they take me." observed him with a knife.

Dussourd was made to leave the house. witnessed as Dussourd forced his way back in the home through a bathroom window a short time later and was again

demanded to leave. had two calls with the Braintree Police that evening. The first occurred when reported Dussourd's behavior to dispatch. The second involved contact from Lt. Timothy V. Cohoon in an effort to obtain additional information about Dussourd for dissemination to the responding officers. In both calls stated that Dussourd was armed with a knife.

Conclusions

Based on the foregoing summaries, the documentary evidence, reports, physical evidence, and the statements taken by the Massachusetts State Police, I have reached the following conclusions:

1. Braintree Police dispatcher detailed multiple officers to 1769 Liberty Street on a report of a domestic disturbance involving a man armed with a knife.
2. Braintree officers were in possession of no less than two non-lethal enforcement modes – canine and bean bag shotgun - at the scene before the lethal interaction with Mr. Dussourd.
3. The consistent narrative of civilian statements, law enforcement statements and physical evidence present at the scene lead me to conclude that responding Braintree police gave appropriate and continuous warnings, deployed multiple types of non-lethal commands and actions, and took other steps consistent with their training and experience to safely subdue Mr. Dussourd.
4. It was later learned that when informed that police were being called Mr. Dussourd had articulated "they're not taking me...they can shoot me before they take me. I'm not staying here waiting for 'em," before departing 1769 Liberty Street. It is reasonable to conclude that Mr. Dussourd was serious in his comments.
5. I further conclude that the actions taken by Braintree Police were justified under the circumstances, in which an appropriate and gradual escalation of force had failed to cause Mr. Dussourd to comply and drop his weapon, instead were the precursor to a direct and life-threatening attack on Officer Cushing. In fact, Dussourd was only feet away from Cushing when he was forced to discharge his service weapon. These officers used the force reasonably necessary to protect themselves from the threat of death or serious bodily harm.
6. I conclude that Braintree Police promptly summonsed emergency medical personnel and immediately began providing emergency life support prior to EMS arrival, without success.
7. In light of these finding and conclusions, the District Attorney for the Norfolk District find no criminal responsibility and will take no further action as to the performance and execution of the duties of Officer Cushing, Officer Hale, Sgt. Charles Bata or any other

Braintree police personnel on March 24, 2016. These officers used the force reasonably necessary to protect themselves from the threat of death or serious bodily harm.

Respectfully,



Michael W. Morrissey
Norfolk District Attorney