

**FINDING OF ESSEX DISTRICT ATTORNEY JONATHAN W. BLODGETT REGARDING OFFICER INVOLVED
FATAL SHOOTING ON NOVEMBER 2, 2020 IN LYNN, MASSACHUSETTS**

The Essex District Attorney's Office and the Massachusetts State Police assigned to the Essex District Attorney's Office have concluded their investigation into the shooting death of John Mellone, 39, of Somerville, who was shot and killed by a Lynn police officer on November 2, 2020.

The Essex District Attorney's Office, by statute, has the legal duty and authority to oversee all death investigations in Essex County. The goal of this investigation was to determine if the fatal shooting of Mellone constituted a criminal act.

The investigation included a review of the following:

- Surveillance videos from the area of Witt St.;
- Interviews with civilian witnesses;
- Interviews with responding Lynn and Revere police officers;
- Evidence found at the scene in the vicinity of 34 Witt St., Lynn;
- Radio Transmissions;
- Information from the Office of the Chief Medical Examiner ("OCME"), including the autopsy of John Mellone;
- Information from State Police Crime Scene Services, Crime Lab, and Firearm Identification Section;
- Medical records of Leo MacAskill;
- Evidence and witness statements from the scene of an attempted robbery in Revere, MA; and
- Evidence and witness statements from the scene of an attempted robbery in Medford, MA.

Whether the actions of the involved police officer constitute criminal acts is examined in light of the applicable case law regarding the use of force by law enforcement officers. To be lawful, the use of deadly force by an officer must be objectively reasonable, given the totality of the circumstances known

to the officer. As the United States Supreme Court has stated, “The ‘reasonableness’ of a particular use of force must be judged from the perspective of the reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Graham v. Connor*, 490 U.S. 386, 396-397 (1989).

The investigation revealed the following facts:

1. At approximately 8:07 a.m. on November 2, 2020, pharmacist Alyssa Surface of Walgreens in Revere was approached by Mellone. Mellone handed her a note demanding prescription narcotics (Opiates, Xanax and Methadone). When Surface had difficulty reading the note, Mellone told her it was a robbery. Surface and other Walgreens employees refused to provide Mellone with any substances and called the Revere police emergency 911 line. A description of Mellone and his vehicle – a silver BMW – was provided to the police and broadcast to Revere officers.
2. A short time later, Revere officer Leo MacAskill, who was driving a marked cruiser, spotted a BMW matching the description of the suspect vehicle and began following it. The BMW was traveling at a high rate of speed coming from the area of the robbery. MacAskill notified Revere dispatch that he located the BMW fitting the description of the one used in the robbery and was following it because of the observed traffic violations. MacAskill attempted to stop the car, but Mellone, the driver of the BMW, failed to stop for the officer and drove toward Lynn on Rt. 107. Lynn dispatch was notified that the BMW was entering Lynn and a description of the vehicle was broadcast to Lynn officers. The information given to Lynn officers included the information that

Mellone was involved in an armed robbery. Mellone eventually turned on to Witt St., a dead-end street, and drove to the end of the street with the Revere cruiser in pursuit.

3. Upon reaching the end of the Witt St., Mellone pulled the BMW into the driveway of 34 Witt St. and performed a three-point turn so that his BMW was now facing Witt St. MacAskill's cruiser partially blocked the BMW's path of egress from the driveway. MacAskill exited his cruiser with his service weapon drawn and began ordering Mellone out of the BMW. Mellone did not comply with the officer's commands. Surveillance video shows Mellone driving the car forward toward the officer in short bursts. MacAskill told investigators that during this time Mellone lightly struck MacAskill's leg with the BMW. MacAskill told Mellone that if Mellone hit him with the car, MacAskill would shoot him.
4. Lynn officer Nhen Tran was working a paid traffic detail (in uniform) at the intersection of Summer St. and Astor St. when he heard the broadcast regarding the pursuit of the BMW. The information that was broadcast to Tran (and all Lynn officers) was that Mellone was armed with a "weapon."¹ Tran saw Mellone's BMW turn down Witt St. followed by the Revere cruiser. Tran left his detail and proceeded on foot down Witt St. to the scene.
5. When Tran arrived on scene, he unholstered his service weapon and pointed it at Mellone. Tran was ordering Mellone both to "turn off the engine" and "get out, get out, get out." Surveillance video shows the Revere officer standing in the area in front of the driver's side of the BMW. Tran stood near the rear of the driver's side of the car. Mellone failed to comply with officers' commands to turn off and exit the BMW.

¹ In his interview, Tran said that he heard the dispatcher say the suspect was armed with a "gun." The dispatcher used the word "weapon."

6. With his service weapon in his right hand, Tran then opened the driver's door of the BMW and attempted to remove Mellone from the car with his left hand. Tran was unable to remove Mellone and backed a few feet away from the car. The door of the car remained open.
7. MacAskill then holstered his service weapon and drew his pepper spray. With his pepper spray in his hand, MacAskill approached the car and attempted to pepper spray Mellone by inserting his right arm into the vehicle between the open driver's side door and the A-pillar² of the vehicle.³ MacAskill told investigators that he did spray Mellone in the face with the pepper spray.
8. When MacAskill pepper sprayed Mellone, Mellone began to drive forward, trapping the Revere officer between the A-pillar and the now closing driver's side door. As he moved forward, Mellone's BMW bumped the Revere cruiser (near the BMW passenger's side front bumper). MacAskill – still pinned between the BMW and the car's door – first struck the fence on the property of 34 Witt St. MacAskill was then wedged and twisted between the BMW and a car that had been parked on the street.⁴ When Mellone began to drive forward with MacAskill trapped between the A-pillar and the door, Tran started shooting at Mellone. The car moved forward for several seconds after Tran started shooting. As the car came to a rest, MacAskill was able to free himself from the door. Investigators located MacAskill's pepper spray canister on the driver's side dash board of the BMW. MacAskill did not remember when or how he dropped the canister.
9. According to his medical records, MacAskill suffered bruising and other internal injuries to his right upper arm as well as right lateral rib pain and left anterior thigh pain when his arm was

² The "A-pillar" of a car is the roof support structure on either side of a vehicle's windshield.

³ MacAskill told investigators that he pepper sprayed Mellone through the open driver's side window.

⁴ In his interview, MacAskill believed he struck a chain link fence located on the side of the driveway at 34 Witt St. rather than the parked car. The video appears to show that he hit both the fence and the car. The fence was partially knocked down when investigators arrived on scene.

“crushed” between the car door and a fence. He continued to experience loss of range of motion and pain into December.

10. Tran fired 8 shots at Mellone. Eight shell casings and 5 1/4 projectiles were recovered from the scene and BMW. Two projectiles were recovered during the autopsy.
11. An autopsy was conducted by Dr. Janice Gravetti of the OCME. Gravetti determined that Mellone died as a result of multiple shot wounds that entered his back. One of the rounds struck his heart. Another pierced Mellone’s jugular vein. A toxicology report detected amphetamines, benzodiazepines (alprazolam and clonazepam), cocaine, fentanyl, and methadone in Mellone’s blood.
12. During the course of the investigation, it was learned that Mellone had attempted to rob a Medford CVS at 5:30 a.m. During this attempted robbery, Mellone approached the pharmacy and attempted to pick up a prescription using a false name. When that failed he told the clerk to gather “all of the narcotics.” He was agitated, and told the clerk he “had a gun” and that “it was not worth getting shot over.” Mellone fled when the pharmacist called security.
13. Mellone’s criminal history includes a conviction for three counts of unarmed robbery in 2013 for which he served a state prison sentence of three years to three years and one day.

CONCLUSION

Based on the facts known to Officer Tran at the time of incident and the law regarding the use of deadly force, it is determined that:

1. Mellone drove toward the Revere officer in a manner consistent with an assault by means of a dangerous weapon;
2. Officers had attempted to take Mellone into custody by ordering him out of the BMW;
3. Officers attempted to use non-deadly force (pepper spray) to take Mellone into custody;

4. When MacAskill used pepper spray on Mellone, Mellone responded by driving forward, trapping MacAskill against the car; and
5. When Officer Tran shot Mellone, Tran reasonably believed that MacAskill was in imminent danger of being seriously injured or killed by Mellone, and therefore, the shooting of Mellone does not constitute a criminal act.

The matter is now referred to the Lynn Police Department for any internal administrative review deemed appropriate.