



The Commonwealth of Massachusetts

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This is the report from Norfolk District Attorney Michael W. Morrissey of the results of his investigation into the death by firearm of Tizaya Jordan Robinson on May 5, 2017 in the Town of Braintree. The investigation was conducted pursuant to and under the authority of Massachusetts General Laws Chapter 38, Section 4.

The location of this shooting was Room 113 of the Motel 6 establishment located at 125 Union Street in the town of Braintree, Mass.

Summary of the evidence reviewed:

1. Eight (8) video discs and one USB Flash Drive containing surveillance video and still images from cameras located on the property of Motel 6 and autopsy photos.
2. Eleven (11) pages of still images.
3. Report of Massachusetts State Police Firearms Identification Section, Lakeville, Massachusetts, dated June 23, 2017.
4. Application for search warrant, affidavit in support of application, and search warrant return totaling six (6) pages.
5. Braintree Use of Force Policy dated April 1, 2002, totaling four (4) pages.
6. State Police Reports of: Sgt. Brian Brooks, regarding the warranted searches of Rooms 113 and 150, totaling two (2) pages, dated May 11, 2017; Trooper Yuriy Bukhenik, totaling two (2) pages, dated May 9, 2017; Trooper Brian Tully, totaling two pages, dated May 12, 2017.
7. Massachusetts State Police Crime Scene Services Section report, Trooper Karrol G. Setalsingh, totaling two (2) pages.
8. Massachusetts State Police Crime Scene Services Section report, totaling two (2) pages, signed by Trooper Sidney J. Chambers.
9. Massachusetts State Police Crime Scene Report No. 1, signed by Forensic Scientist II Amy E. Joy, Massachusetts State Police Crime Laboratory, totaling five (5) pages, dated June 1, 2017.
10. Data extracted from a Samsung Galaxy S5 phone belonging to Tizaya Robinson, extracted by State Police Detective Unit – Norfolk District Attorney's Office, reviewed on one CD and three (3) written pages.
11. Incident report by Boston Police Officer Ashley Sena, dated May 4, 2017, totaling five (5) pages.
12. Massachusetts State Police Report of Sgt. Brian Brooks, attaching the transcription of an interview with Braintree Police Officer Donald Delaney, dated May 24, 2017, totaling thirteen (13) pages.

13. Braintree Police Department lethal force report forms signed by Officers Ryan McHugh and William R. Cushing, Jr., two (2) forms totaling four (4) pages.
14. Braintree Police Department Property Detail Reports dated May 18, 2017, totaling fifteen (15) pages.
15. Braintree Police Department Incident Reports by several involved officers dated May 11, 2017, totaling forty-nine (49) pages.
16. Report of the Office of the Chief Medical Examiner, dated June 19, 2017.

This report addresses my review, findings and conclusions regarding the events of May 5, 2017, in the town of Braintree, resulting in the police officer-involved death of Tizaya Robinson, who was age 25 at the time of his death. This analysis and review draws heavily from video images captured by multiple video cameras, with multiple lines of sight, capturing events as they transpired, witness statements given by numerous guests of Motel 6, and the statements given by Braintree Police Officers Hamilton, McHugh, Cushing, Delaney and Hurley, who were involved in the 209A restraining order service that occasioned police presence at Mr. Robinson's door at that date and time and the statements of the Braintree Officers McNamara and Donnellan.

Summary of Events

Evidence shows that on the afternoon of May 5, 2017, the Braintree Police Department received a facsimile transmission from the Boston Police Department requesting assistance in serving a restraining order issued pursuant to M.G.L. Ch. 209A on Robinson. It is standard procedure for police departments to request such assistance when they believe that the subject of such service may be present in another jurisdiction. The Boston Police Department supplied additional information that BPD believed that Robinson was staying in room 113 of the Motel 6. As is prudent and unremarkable practice, Braintree police obtained additional information on Mr. Robinson prior to making contact. In doing so, Braintree officers learned that he was the subject of an active kidnapping warrant based on an incident in Boston. Braintree police also learned that Mr. Robinson's substantial criminal history included firearms violations.

Dispatch recordings of Braintree Police radio traffic document that shortly before 9 p.m. Officers Delaney, McHugh and Cushing traveled to the Motel 6 location. Although Officer Cushing is a K-9 officer and was present with his dog, the events as they transpired did not occasion the utilization of the dog. Officer John Hurley was working a paid detail at the Motel 6 and was present to assist in placing Mr. Robinson under arrest. Officer Hamilton arrived and joined as they walked toward room 113.

Arriving officers were dressed in full uniform. Their marked police vehicles were parked to the left of the Motel 6 office. Officer Hurley entered the office lobby and spoke to the clerk. He confirmed the identity of the occupant of room 113 by examining a printed copy of the drivers' license information that had been provided by Robinson at registration. Officers also confirmed that

the car in the parking lot near room 113 was the vehicle Robinson had registered with the motel. Officer Hurley also obtained a key to room 113 in case that was to be useful in making entry.

At Officer Delaney's request, Officer Cushing moved his cruiser to be closer to room 113 in case circumstances unfolded in such a way that the K-9, whose training includes subduing resistant suspects without causing injury, could be utilized. Officer Delaney had Braintree Police Dispatch query the registration of the car, a silver BMW, associated with and parked in front of room 113 and learned that it was owned by a female residing in Boston.

The accounts of the several officers, corroborated by video evidence, establishes that Officer Delaney went to the left of the door, as one faces the building, with the other officers to the right. The room's window is to the right of the door. Officer Delaney knocked on the door and announced the presence of Braintree police. Officer Hurley began to knock on the window. This account by officers is corroborated by the interviews of guests who were within earshot of the events.

There was no response to any of the knocks or statements by police. Officers were monitoring the room for any sign of light or evidence of movement but report observing none. Officer Hurley produced the keycard in his possession and moved to the left-hand side of the door to activate the electronic locking/unlocking mechanism. Delaney then moved to the center-right of the doorway. As officers opened the door, they observed that the interior security latch on the door was engaged and prevented it from being fully opened. It was open a small gap when officers shined a flashlight through and again announced: "Police. Open the door." Officers report that they heard a reply from within room 113 asking: "Who is it?" Officers again identified themselves and commanded Robinson to open the door.

Robinson then opened fire through the door at the police. In the ensuing investigation, four shell casings from Robinson's gun were found within room 113. Video surveillance of the events captures Officer Delaney as he immediately recoils and drops to the ground, apparently from the wound to his face. Officer Delaney was also heard yelling "I'm hit...I'm hit." Officer Hurley reported that he could see that Delaney had been shot with blood visible on his face. As Robinson was firing his first shots, Officers Delaney, McHugh and Cushing began returning fire through the still-closed door. Braintree dispatch was alerted that shots were fired and that an officer was wounded. Officers retreated to defensive positions in and about the parking area with Officer Delaney, still bleeding, taking a position behind a pillar.

Officer Cushing told Officer Hurley that they needed to pull Delaney out of the line of fire, and he was taken by the vest and dragged toward the cover of the Motel 6 sign. During this period, Officer McHugh retrieved his department-issued rifle from his vehicle. Officer Paul Hamilton was present at Motel 6 and accessed his department-issued rifle.

After a few moments during which there were no shots fired, officers heard renewed gunfire from inside the room and quickly returned fire in a brief burst. This brief cease fire is corroborated by interviews of auditory witnesses.

Evidence from the autopsy report of the Medical Examiner, the ballistics evidence and the totality of the interview and narrative suggest that the renewed gunfire heard by officers included a shot fired from Robinson's 9mm automatic pistol as that weapon was positioned under his chin and aimed upward and outward. This caused Robinson's bullet to enter his head from below, cause substantial, but not immediately fatal, injury, and exit through the front of his face. That bullet was not recovered at autopsy. The fatal wound was one that entered the head at the right parietal bone and exited the upper left parietal scalp. Although that bullet was also not recovered at autopsy, it is clear that it was a projectile fired by police as they returned the renewed gunfire. Without recovering or identifying that projectile for analysis, it is not possible to ascertain which of the officers who fired caused the fatal wound.

As Braintree police supervisors at the police station learned of the unfolding events, steps were taken to evacuate the guests of Motel 6, to evacuate the wounded officer, and (not knowing that Robinson had already suffered a fatal wound) to secure the scene to prevent Robinson from escaping, and to initiate the activation of regional SWAT teams. Additional regional and State Police officers began to respond, along with equipment and physical assets.

Officer Delaney in addition to his visible face wound also had temporarily lost sight in one eye. He was transported to Boston Medical Center for treatment accompanied by Officer Hurley. Braintree Police effectuated the evacuation of the guests of the motel, initially to a staging area at the nearby Braintree MBTA station, then to the police station, where many spent the remainder of the night. As sufficient additional personnel arrived at the scene, the officers directly involved in the shooting were rotated to the police station for debriefing. All weapons were collected for ballistics examination. That examination includes comparison of unused ammunition levels before and after the engagement and reveals that Officer Delaney fired 11 rounds, Officer McHugh fired three rounds from his rifle and fired two rounds from his hand gun. Officer Cushing fired 13 rounds.

Several hours later, SWAT teams were eventually able to safely observe the interior of the room using a robotic arm equipped with a camera. Mr. Robinson was visibly deceased on the floor in the southeast corner of the room. He was in a prone position with his legs crossed at the calves and his arms underneath his body. When his body was eventually moved, a black 9mm pistol was revealed underneath him.

The Office of the Chief Medical Examiner accepted the body for autopsy and he was removed to the OCME in Boston. The OCME found a total of three gunshot wounds to the body.

There was a non-fatal through-and-through shot to his left thigh. That wound entered the leg at 37 inches below the top of his head and exited at 37 inches below the top of his head.

The second wound, already described, entering from the bottom of his head, features visible soot/muzzle imprint surrounding the entry, consistent with very close contact discharge.

The third wound, which entered and exited his skull as described above, was ruled to be the cause of death.

Findings

1. Testimonial evidence of police and guests establishes that Braintree Police loudly and repeatedly announced their presence, identifying themselves as law enforcement officers.
2. Testimonial evidence, corroborated by video, establishes clearly that Robinson initiated fire, striking Officer Delaney in the face, while Braintree Police were attempting to lawfully effectuate an arrest on an active felony warrant and lawfully serve Robinson with a 209A restraining order.
3. I credit the statements of the officers, corroborated by video and the statements of auditory witnesses, that Robinson resumed firing after the brief hiatus.
4. At the time Robinson resumed firing, with the door still closed and no view into the room for police, officers believed themselves to be under imminent, immediate and ongoing danger of injury or death caused by Robinson's actions.
5. Braintree Police acted within the scope of their employment and in accordance with the law in returning fire into room 113.
6. These officers were justified in using deadly force to protect themselves and others from the imminent threat of death from incoming gunfire.
7. That justified use of deadly force resulted in the death of Robinson, although the available evidence does not establish which officer fired the fatal bullet.
8. In light of these findings and conclusions, the District Attorney for the Norfolk District finds no criminal responsibility on the part of responding officers and will take no further action relative to the actions of Braintree Police at Motel 6 on May 5, 2017.

Respectfully submitted,



Michael W. Morrissey
Norfolk District Attorney
July 27, 2017