

The Commonwealth of Massachusetts

Bristol County District Attorney's Office
C. Samuel Sutter
District Attorney

Press Release
March 31, 2010

The Bristol County District Attorney's Office has completed its investigation into the August 11, 2009 police involved shooting of Joseph M. Ramos Jr. on Milton Street in Dartmouth.

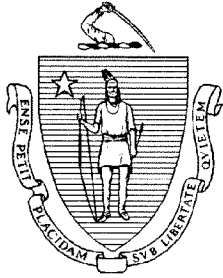
The investigation has concluded that based on all of the circumstances involved and eyewitness accounts, the officers' actions were necessary to defend themselves, and therefore the fatal shooting was justified and lawful, and did not violate any General Laws of the Commonwealth of Massachusetts.

The investigation identified the one officer that fired at Mr. Ramos, and identified a second officer as also being involved in the struggle which preceded the shooting.

The investigation has confirmed through extensive witness interviews, crime scene investigation and crime lab/autopsy reports that the shooting of Mr. Ramos was justified under the law regarding justifiable homicide.

The investigation into this incident was led by Assistant District Attorney Steven Gagne and was conducted by members of the State Police Unit assigned to this office. District Attorney Sam Sutter participated in the compiling of the final report and approved the final draft.

Although most of the investigation has been completed for months, this office was unable to complete its review until full autopsy results were received. Those results were delivered to this office late last week. A comprehensive report regarding the investigation is attached to this e-mail.



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DISTRICT ATTORNEY'S FINDINGS AND CONCLUSIONS REGARDING THE AUGUST 11, 2009 POLICE-INVOLVED FATAL SHOOTING OF JOSEPH M. RAMOS, JR. IN DARTMOUTH, MA

INTRODUCTION

The following report regards the fatal shooting of Joseph M. Ramos, Jr., on August 11, 2009, by Officer Jared White of the Dartmouth Police Department. The lead investigator of this case was Lieutenant Francis McGinn of the Massachusetts State Police Detectives Unit assigned to the Bristol District Attorney's Office. He submitted his finalized report to the District Attorney's Office on October 27, 2009. The autopsy report was completed by the Medical Examiner on March 25, 2010. A copy of the autopsy report was provided to the District Attorney's Office that same day.

In addition to Lt. McGinn's report, the District Attorney's Office also reviewed: (1) various subsidiary reports prepared by members of the Massachusetts State Police Detectives Unit assigned to the Bristol District Attorney's Office; (2) reports prepared by members of the Massachusetts State Police Crime Laboratory; (3) reports prepared by the Dartmouth Police Department; (4) photographs of the scene; (5) handwritten witness statements; (6) videotaped witness interviews; (7) the Dartmouth Police Department's Standard Operating Procedure #02 ("Use of Force, Lethal & Less Lethal"); (8) Ramos's Board of Probation/CORI information; and (9) an autopsy report dated March 25, 2010, authored by Dr. Kimberly Springer of the Office of the Chief Medical Examiner.

FACTUAL SUMMARY

(The following factual summary is drawn from the sources listed above, and includes only the most pertinent facts of the case. It is not intended to be a comprehensive

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statement of all of the facts of this case.)

The deceased, Joseph Ramos, Jr. (hereinafter "Ramos"), lived alone in a dilapidated wooden shed between #58 and #73 Milton Street in Dartmouth, Massachusetts. Neighbors report having had limited contact with him over the years, but would often see him riding his bicycle in the neighborhood and around town.

On the evening of August 11, 2009, Ramos knocked on several neighbors' doors on Milton Street stating that he was looking for someone named "Mary" and hunting rabid animals. Ramos was carrying a long wooden pole with a rectangular-shaped piece of wood attached to its base, from which several nails were protruding. Concerned over Ramos's bizarre behavior, a neighbor called the Dartmouth Police and asked them to respond.

Officers Scott Brooks and Jared White were dispatched to investigate. Officer Brooks arrived first, and parked his cruiser at an angle at the intersection of Milton and Fifth Streets. When he exited his cruiser, he observed Ramos carrying the long pole with nails protruding from its base. He ordered Ramos to drop the pole, and Ramos complied. Officer Brooks then kicked the pole farther away as a safety precaution. About this time, Officer White arrived on scene and parked his cruiser behind Officer Brooks's cruiser. Officer White exited his cruiser and took up a "cover" position approximately 10-15 feet from Officer Brooks and Ramos, pursuant to his training and Department protocol.

Officer Brooks continued to converse with Ramos, who was talking about snakes, rabid skunks and a woman named "Mary." Ramos appeared to be sweating and was not making consistent eye contact with Officer Brooks. Officer Brooks asked Ramos if he felt okay, to which Ramos replied, "Not really." Officer Brooks then asked Ramos if he needed medical attention, but Ramos declined. By this time, several of the residents on Milton Street had gathered nearby to watch the encounter. They included Terri Carter and Christopher Couture of 58 Milton Street, and Antone and Beatrice Duarte of 52 Milton Street. All four were positioned approximately 30-40 feet from the encounter between Officer Brooks and Ramos.

As Officer Brooks continued to speak with Ramos, Ramos began to put his hands in his pockets, and Officer Brooks asked him not to do so. Ramos initially complied with the officer's request, but a short while later he again placed his hands in his pockets, this time removing a sharp metal object from his right front pocket that Officers Brooks and White (and several of the onlooking neighbors) believed to be a knife. Ramos then quickly advanced toward Officer Brooks, which caused Officer Brooks to lose his footing and fall to the ground as he tried to distance himself from Ramos. Now on his back, Officer Brooks tried to push himself away from Ramos using his feet, all the while ordering Ramos to drop the weapon. Ramos instead closed in on Officer Brooks, stood over him, bent down and began plunging the apparent knife toward him in a stabbing motion. Officer White feared Ramos was stabbing his partner with a knife; Officer Brooks believed he was about to die.

Officer White opened the rear door of his cruiser and deployed his K9 in an attempt to subdue Ramos. The K9 stuck his head between Officer Brooks and Ramos

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and barked, at which point Officer White realized that this was not a suitable situation for use of a K9. He called off the K9, drew his Department-issued firearm and ordered Ramos to drop the weapon. Ramos did not comply with Officer White's repeated commands. Instead, Ramos stood up and advanced quickly toward Officer White, still clutching the metal weapon in his right hand. Officer White was approximately four feet from Ramos at the time. Officer White attempted to step back from Ramos in an effort to create distance between himself and Ramos, but was unable to do so given the speed with which Ramos advanced toward him; Ramos had closed the four-foot gap between himself and Officer White within a second or two. Fearing for his safety, Officer White at this time fired a single round at the advancing Ramos, striking him in the center of his chest. Ramos fell to the ground and landed on his right side, with his right hand underneath him against his chest.

Officer Brooks got to his feet and joined Officer White. Unsure whether Ramos was incapacitated, they continued to order Ramos to drop the apparent knife. Officer Charles Lackey arrived at this point and observed Officers Brooks and White yelling to Ramos to "Drop the knife!" They received no response from Ramos and observed no movement from him. Officer Lackey placed his foot on Ramos's right hand while Officers Brooks and White rolled Ramos onto his back, and at this point they were able to determine that the silver object in Ramos's right hand was actually a Phillips-head screwdriver, which Ramos was still clutching when he fell to the ground. The officers then immediately began to administer lifesaving techniques to Ramos, including CPR.

Several other members of the Dartmouth Police Department responded to the scene upon hearing the "shots fired" announcement over the Department's radio communications. Among them was Officer Michael Gill, who had with him his personal cell phone which was equipped with a camera device. As other officers were administering lifesaving measures to Ramos, Officer Gill utilized the camera feature on his personal cell phone to take a picture of Ramos's right hand, which was still clutching the screwdriver. Once paramedics arrived on scene and assumed care for Ramos, Officer Scott Stanton took two additional photographs of Ramos using a Department-issued digital camera, which show Ramos still clutching the screwdriver in his right hand.

Ramos was transported to St. Luke's Hospital where he was pronounced dead from the single gunshot wound to his chest. He was subsequently autopsied at the Office of the Chief Medical Examiner in Boston, which confirmed that he died from the single gunshot wound to his chest, with the projectile perforating his heart, lung, liver and adrenal glands. During the autopsy, a second screwdriver was discovered in another of Ramos's pockets, this one with a sharpened tip.

Once the scene of the shooting was secured, investigators from the Dartmouth Police Department and the State Police Detectives Unit assigned to the Bristol District Attorney's Office set about investigating the incident and interviewing witnesses. The four neighbors who witnessed the incident were asked to respond to the Dartmouth Police Department for interviews that very evening. Regarding the sequence of events leading up to Ramos's shooting, all four witnesses were essentially consistent in that Ramos acted as the aggressor and refused to heed the officers' repeated commands to drop the item believed to be a weapon.

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Specifically, Terri Carter reported that Ramos charged Officer Brooks with something in his hand, which caused Officer Brooks to fall to the ground. Ramos then got on top of Officer Brooks and the two appeared to be wrestling. Both officers repeatedly told Ramos to drop his weapon and to get down on the ground, but he did not comply. Instead, he jumped up and charged at Officer White, who fired a single shot at him. After the shooting, Carter heard Officer White repeatedly asking Officer Brooks if he had been stabbed.

Christopher Couture reported that while speaking with the officers, Ramos pulled a shiny object from his pocket and charged at one of the officers, knocking him to the ground. Based on what he could see, Couture believed the shiny object was a knife. When Ramos turned on the other officer, the other officer shot Ramos once.

Beatrice Duarte reported that Ramos took what appeared to be a knife from one of his pockets and attacked the officer he was initially speaking with. She went on to describe how the second officer repeatedly ordered Ramos to get to the ground, but Ramos instead lunged at him with the knife still in his hand. Ms. Duarte stated that the officer who shot Ramos “had no choice” but to do what he did.

Antone Duarte similarly reported that as Ramos was speaking with the first officer, Ramos suddenly “dashed” at the officer and shoved him, causing the officer to fall to the ground. Duarte could not tell whether Ramos had anything in his hands at the time, but in demonstrating Ramos’s movements, Mr. Duarte extended his right hand as though making a stabbing motion. Mr. Duarte did recall one of the officers repeatedly telling Ramos to stay on the ground before he was shot, but he could not tell which of the officers shot Ramos.

EVIDENCE COLLECTION

One discharged .40 caliber cartridge casing was recovered from the scene. Officer White’s Department-issued firearm was found to be lacking one round of .40 caliber ammunition, whereas all of the ammunition associated with Officer Brooks’s Department-issued firearm was present and accounted for. Although both firearms were submitted to the Massachusetts State Police Firearms Identification Section for further examination, the preliminary inspection confirms that the projective which struck Ramos was fired by Officer White using his Department-issued firearm.

The Phillips-head screwdriver present in Ramos’s hand at the time of the shooting was recovered, as was the wooden pole with nails protruding from its base. As mentioned earlier, a second screwdriver discovered in Ramos’s pocket was collected as evidence during his autopsy. Also collected during the autopsy was a sample of Ramos’s blood, which was submitted for comprehensive toxicology examination. That

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examination later revealed no alcohol or drugs of abuse in Ramos's system at the time of his death.

An autopsy was performed on the body of Joseph Ramos by the Medical Examiner. In the autopsy report, Doctor Kimberly Springer confirmed that Ramos died from a single gunshot wound to his chest, with corresponding injuries to his heart, right lung, liver and adrenal glands. The direction of the wound path from the single projectile is downward, with the projectile coming to rest approximately eight inches below the point of entry. This is consistent with Officer White's account of shooting Ramos as Ramos went from a crouched position atop Officer Brooks, to a lunging motion toward Officer White, which would have resulted in Ramos's upper body being angled toward Officer White at the moment Officer White shot him.

Officer Brooks's Department-issued uniform shirt was found to contain a white scratch or scuff mark on its upper left sleeve, and the shirt was collected as evidence and submitted to the Massachusetts State Police Crime Laboratory for possible tool mark examination. The backside of the shirt was also found to contain dirt and scuff marks consistent with the officer scraping against the pavement of Milton Street. Officer Brooks was also observed to have minor abrasions to his elbows, consistent with having fallen against the pavement.

On August 12, 2009, the Dartmouth Police Department applied for and was granted a search warrant for Ramos's dilapidated wooden residence. Among the items of interest seized were: (1) a nylon holster with two pieces of wood sharpened to a point; (2) a sock with a rock inside; (3) a file with its handle sharpened to a point; (4) various notebooks containing assorted writings; and (5) several unidentified pills. Several members of Ramos's family (as well as the family's legal representative) were allowed to be present during the search to observe and to assure themselves of the propriety of the search.

PHYSICAL/MENTAL BACKGROUND

The District Attorney's Office made two written attempts to obtain information regarding Ramos's physical and mental health history from the attorneys representing the Ramos family. The first request was dated September 6, 2009, and requested "any information... regarding the deceased's mental and physical health prior to the incident in question." This request was verbally denied by Attorney Paul Andrews of Denner-Pellegrino during the last week of September.

The second written request was dated October 6, 2009, and again requested "information pertaining to the late Mr. Ramos's physical and mental health history." Although the District Attorney's Office requested a response by October 15, 2009, no response was ever received.

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During the week of December 21, 2009, our Office was contacted by Ramos's sister, Julia Mitchell, who indicated that she wished to meet with us to discuss the case and to share information regarding her brother's physical and mental history. On December 28, 2009, she met with District Attorney C. Samuel Sutter, First Assistant District Attorney William McCauley, and Assistant District Attorney Steven Gagne at the District Attorney's Office in New Bedford.

She reported that Ramos had experienced significant depression following their mother's death in 1989-1990, but that he had never received any treatment for it. She also reported that Ramos, like herself, had been diagnosed with Charcot-Marie-Tooth (CMT), an inherited neurological disorder that affects both motor and sensory nerves and causes weakness of the foot and lower-leg muscles. She began experiencing symptoms of CMT approximately ten years ago, when she would have been her brother's age (42).

She explained, however, that no medical records regarding her brother's diagnosis or condition were available, since he lacked health insurance and was only occasionally seen by her own doctor in conjunction with her treatment.

Ms. Mitchell reported that she saw her brother just once per month in the summer of 2009, during which time he was walking with what she described as a hop/limp. She expressed doubt that her brother would have been able to crouch over Officer Brooks and then lunge at Officer White, despite the fact that several civilian eyewitnesses reported having seen him do just that. She also claimed that CMT largely prevented her brother from riding his bicycle. When asked, however, why Ramos would have had a screwdriver with him at the time of his death, she explained that he routinely carried a screwdriver with him to fix the chain on his bicycle if it fell off while he was riding it.

Lastly, Ms. Mitchell reported that her family had arranged for its own independent autopsy on Ramos's body, but she declined to share any of the findings or conclusions drawn from it.

DISCUSSION

A homicide is defined as "the killing of one human being by another." *Webster's New World College Dictionary* 646 (3rd ed. 1996). Not all killings are unlawful, however. A killing "is excused and is therefore not a crime if it results from the proper exercise of self-defense." Model Jury Instructions on Homicide 54 (1999). "A homicide is also excused and is therefore not a crime, if it results from the proper exercise of the defense of a third person." *Id.* at 56.

Ordinarily, "[a] person may not use force in self defense until he has availed himself of all proper means to avoid physical combat." Model Jury Instructions on Homicide 54 (1999). While this principle clearly applies to civilians, police officers are duty-bound to quell dangerous situations and, thus, are all-too-often confronted with acts of aggression and violence. An officer would actually be derelict in his or her duty to flee from an individual who posed a threat to the safety and well-being of another person or the public at large.

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The Model Jury Instructions on Homicide also hold that “[a] person may use no more force than is reasonably necessary in all of the circumstances to defend himself... [and that] to defend oneself with a dangerous weapon likely to cause serious injury or death (or to use deadly force), the person using the weapon (or deadly force) must have a reasonable apprehension of great bodily harm or death and a reasonable belief that no other means would suffice to prevent such harm.” *Id.* at 54-56.

Applying these principles to the facts of this case, our conclusion is that Officer White acted lawfully in defense of both himself and Officer Brooks when he discharged his firearm one time at a rapidly advancing, armed Ramos. Officer White was forced to take this measure only after: (1) Ramos hastily pulled an object from his pocket which appeared to be a knife; (2) Ramos advanced rapidly toward Officer Brooks, causing him to lose his footing and fall to the ground; (3) Ramos positioned himself above the supine officer and repeatedly plunged the apparent knife toward him; (4) Ramos failed to comply with both officers’ repeated requests to drop the weapon; and (5) Ramos turned toward Officer White and advanced quickly toward him, still armed with the apparent knife. At any point, Ramos could have terminated the encounter by dropping the weapon and ceasing his aggressive conduct toward the officers, but he did not.

Commendably, Officer White did not resort to using deadly force until first attempting to quell the situation through less lethal means. Although he would have been justified in firing at Ramos the moment Ramos assaulted Officer Brooks with the apparent knife, Officer White first attempted to subdue Ramos by deploying his K9. Officer White quickly realized, however, that the K9 would not appropriately resolve the situation. He therefore called off the K9 and instead drew his firearm and repeated his previous orders for Ramos to drop the weapon. By this point, Officer White feared that he had just witnessed the severe wounding or killing of his partner, and Officer Brooks himself thought that he was about to die. Even so, Officer White did not discharge his firearm at Ramos until Ramos charged at him while still armed with the apparent knife.

Only once Ramos was incapacitated and backup officers arrived was it determined that the silver object in Ramos’s right hand was actually a screwdriver. However, this after-the-fact determination of the exact nature of the object in Ramos’s hand does not affect the officers’ assessment of the situation as it unfolded. First, not only did the officers believe Ramos was armed with a knife, but several of the neighbors who witnessed the encounter thought so as well. Second, a screwdriver is quite capable of inflicting serious and/or fatal injuries to a human being. “The standard definition of ‘dangerous weapon’ includes those items that are, by their nature, capable of causing serious injury or death, but also includes items that are used or displayed in a way such that they reasonably appear capable of causing serious injury or death.” *Commonwealth v. Powell*, 433 Mass. 399, 401 (2001). Even had Officer White realized from the outset that Ramos was armed with a screwdriver, he still would have been justified in employing deadly force toward Ramos given the manner in which Ramos was wielding the object.

Further, Ramos’s neurological disorder (as reported by his sister) does not appear to have impeded his agility or movements on the evening of August 11, 2009. Several independent civilian eyewitnesses corroborate the officers’ account of the incident,

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during which Ramos inexplicably pulled a screwdriver from his pocket and suddenly advanced toward Officer Brooks, knocking him to the ground, crouching over him and repeatedly plunging the weapon toward him, and then lunging toward Officer White. Given the absence of drugs or alcohol in Ramos's system at the time, and the absence of available information regarding Ramos's mental health, it remains unexplained what motivated Ramos to act in such a bizarre manner.

Lastly, although not dispositive, it should be noted that Officer White's actions on the night in question complied with the Dartmouth Police Department's internal Standard Operating Procedure ("SOP") regarding the use of force. In relevant part, the SOP states that an officer may use lethal force only when necessary "in defense of human life, including his/her own, or in defense of any other person in immediate danger of serious physical injury." The policy goes on to state that "whenever feasible, some warning must be given to the subject prior to action taken involving lethal force." SOP #02, p. 1. The SOP incorporates a widely-used "Use of Force Model" which takes into account the various factors that must be considered in determining whether an application of force was objectively reasonable. Neither this Model nor the law required Officer White to exhaust all less lethal means of incapacitating Ramos before resorting to deadly force. From the moment Ramos pulled the apparent knife from his pocket and lunged toward Officer Brooks, Ramos escalated the potential lethality of the situation to its highest level. It should also be noted that at the time Officer White discharged his firearm, Ramos was well within the 21-foot range established by the "Tueller Drill" within which an officer would not have time to draw his weapon and fire upon an approaching knife-wielding assailant. Officer White had received prior training in the "Tueller Drill."

CONCLUSION

For the foregoing reasons, and based upon all available information and eyewitness accounts, Dartmouth Police Officer Jared White's fatal shooting of Joseph M. Ramos, Jr., on August 11, 2009, in the town of Dartmouth, was justified and lawful, and did not violate any General Laws of the Commonwealth of Massachusetts.