

FINDINGS OF DISTRICT ATTORNEY MARIAN T. RYAN REGARDING THE
OFFICER INVOLVED NON-FATAL SHOOTING OF WILLIAM OMAR SANTIAGO
IN CHELMSFORD BY CHELMSFORD POLICE OFFICER KRISTIN LEARY ON
JULY 23, 2017

The Middlesex District Attorney's Office, the Massachusetts State Police assigned to the Middlesex District Attorney's Office and the Chelmsford Police Department have concluded the investigation into the non-fatal shooting of William Omar Santiago, 35, of Lowell, who was shot by a Chelmsford Police Officer on Clover Hill Drive in Chelmsford on July 23, 2017.

A thorough investigation into the circumstances surrounding the shooting of Mr. Santiago has revealed that Officer Kristin Leary of the Chelmsford Police Department fired two shots at Mr. Santiago after determining that she, her fellow officers and a female were in imminent danger of death or grievous bodily injury at the hands of William Santiago, and that there were no other means available to protect the lives and safety of herself and others other than by discharging two rounds from her department-issued service weapon. Under the circumstances, Officer Leary acted reasonably and lawfully. Therefore, no criminal charges are warranted.

* The following report is being released in redacted form according to the Rules of Professional Conduct Rule 3.4: Fairness to Opposing Party and Counsel to protect the integrity of an open criminal case currently pending against Mr. Santiago as well as to protect Mr. Santiago's right to a fair trial. Witness testimony and the names of victim and civilian witnesses have been redacted.

Upon the conclusion of the prosecution, the full unredacted report will be available.

I. INTRODUCTION

The District Attorney's Office, along with the Massachusetts State Police assigned to the Middlesex District Attorney's Office and the Chelmsford Police Department, conducted an investigation into the facts and circumstances of the non-fatal shooting by Officer Leary, while on duty with her department-issued firearm. As such, the primary goal of the investigation was to determine if any person bears criminal responsibility in connection with the shooting of William Omar Santiago on July 23, 2017. I designated my Chief of Homicide, Adrienne Lynch, to direct the investigation.

During the course of the investigation, recordings of the 911 call as well as police radio communications were gathered and reviewed.

No surveillance camera video was available.

Photos of injuries sustained by the female civilian victim were reviewed.

The four police officers who responded to the scene were all interviewed as were the two civilian witnesses who lived in the house.

An examination of the firearms of officers present was made the results of those examinations were reviewed.

II. APPLICABLE LAW

This office's analysis of whether the actions of the involved police officer constitute a criminal act was guided by applicable case law and legal precedent on the use of force by law enforcement. In order for use of deadly force to be lawful, the actions of the officer must have been objectively reasonable in light of all circumstances confronting the officer at the time.

As stated by the United States Supreme Court, in Graham v. Connor, 490 U.S. 386, 396-397 (1989), "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."

The standard for use of deadly force in Massachusetts is that a person may use deadly force to defend him or herself or another if the person has reasonable ground to believe, and actually believes, that he or she or another person is in imminent danger of death or serious bodily injury, and that no other means would suffice to prevent such harm. The person using deadly force must actually believe that he or she or another person is in imminent danger of death or serious bodily harm. In addition, the circumstances, as perceived and understood by the person using deadly force, must be such that a reasonable person would believe that he or she or the other person was about to be attacked, and that he or she or the other person was in immediate danger of being killed or seriously injured.

Our review of the facts reveals that, in the totality of the circumstances, Officer Leary was justified in her use of deadly force. Officer Leary's use of force was not excessive in the circumstances and, therefore, the non-fatal shooting of William Omar Santiago was a reasonable exercise of self-defense, under Massachusetts law.

III. SUMMARY OF THE FACTS:

On July 23, 2017, Chelmsford Police received notification from the Essex Emergency Communications Center in Middleton of a possible domestic 911 hang-up call they received which was tracked to the address of 3 Clover Hill Drive in Chelmsford. As a result, at 7:39 a.m., uniformed Chelmsford Officer Brian Gervais was dispatched to respond. He was familiar with that address as a result of prior calls to that location. Uniformed Chelmsford Officer Christopher Mauti, who was also on patrol, radioed that he would respond as back-up. Gervais arrived first and approached the front door. He

was met by a male occupant of the residence who directed him to a bedroom down the hall to the left.

Gervais approached and knocked on the door announcing his presence as a police officer. The door was opened by William Omar Santiago who appeared to be in a rage and who immediately began punching and hitting Officer Gervais with closed fists about the head and face. The barrage of punches caused Officer Gervais to bleed from the face and he began to try to block blows defensively with his arms. Santiago returned back in to the room. After this initial assault by Santiago on the officer, there were a series of assaults that were committed by Santiago on Gervais and the three other officers who responded to assist in securing the safety of the female in the bedroom with Santiago. This woman was also physically assaulted by Santiago in the room as the police officers in the hallway were attempting to come to her aid. Santiago escalated his assaults on the officers. During the course of the ensuing events, Santiago would sporadically open the door and throw objects – first a hammer, “tomahawk-style” at Officers Gervais and Mauti, then large pieces as well as shards of heavy, broken glass, at the officers – Mead, Leary, Mauti and Gervais. The large pieces of glass were wielded like a spear and the smaller ones wielded like martial arts fighting stars, and a sharp, pointed piece of wood, all as the female was screaming and yelling for help.

The officers first attempted to quell Santiago’s violent rampage, without weapons, then by two of the officers deploying their department-issued tasers and then, when all available options were exhausted, Officer Kristin Leary fired two rounds from her department-issued firearm, which stopped Santiago’s assault and allowed for the female to be freed from the room and Santiago to be arrested.

Santiago was transported first to Lowell General Hospital and then by med-flight to Tufts New England Medical Center in Boston.

Massachusetts State Police Lieutenant Paul Bulman and Massachusetts State Police Trooper Anthony Delucia attempted to interview Mr. Santiago at the hospital, but he declined to speak to them, before attempting to escape from police custody at the hospital and assaulting the Chelmsford uniformed officer guarding him and Lieutenant Bulman and Trooper Delucia.

Mr. Santiago was treated and released from the hospital the following day, July 24, 2017.

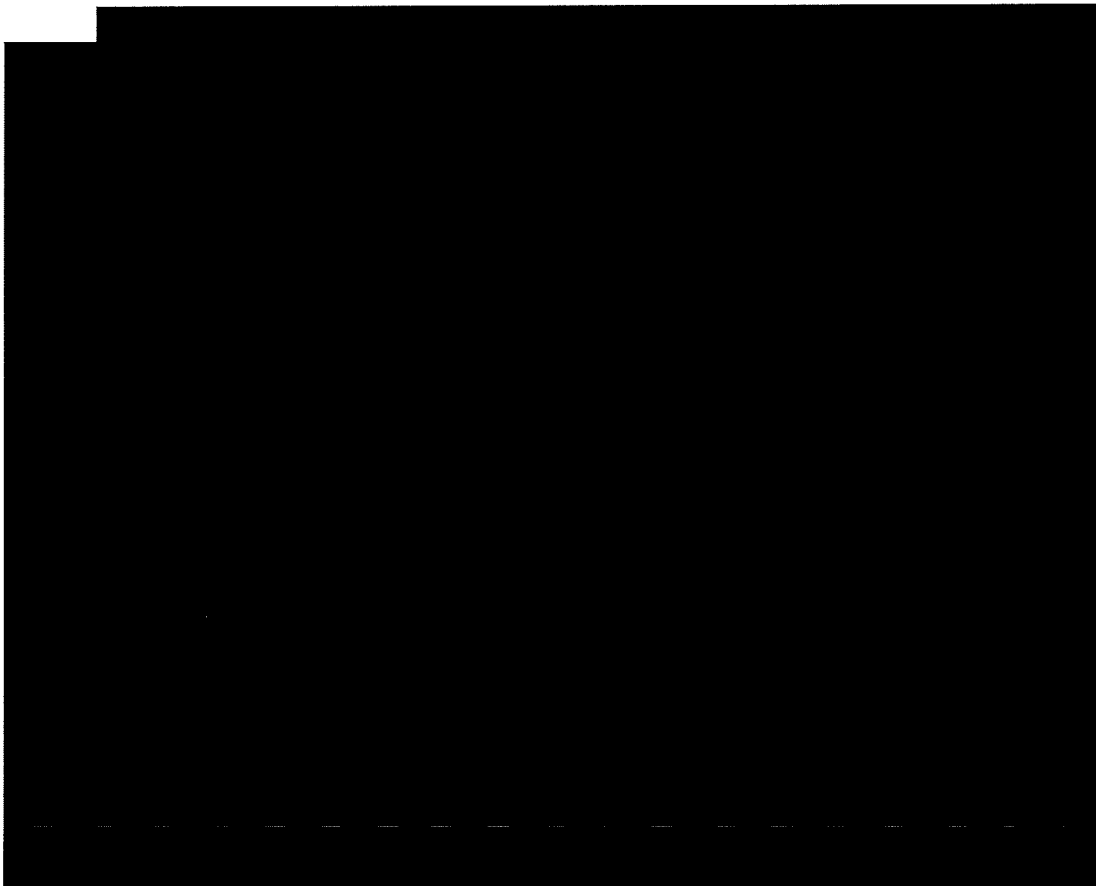
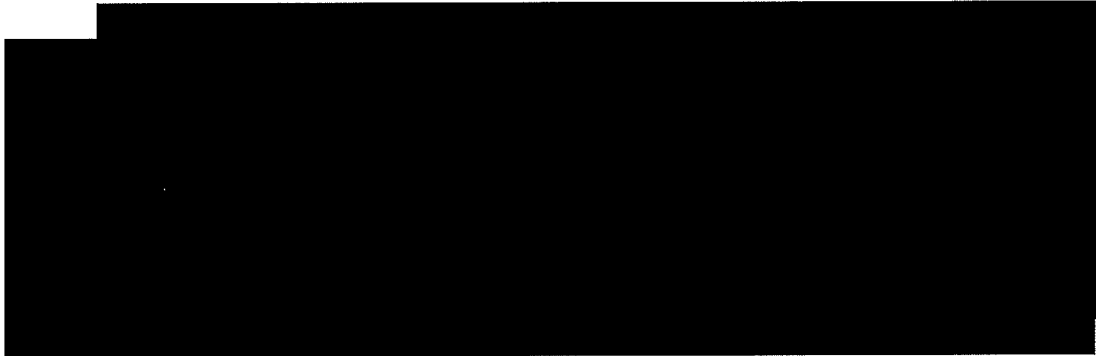
IV. INVESTIGATIVE FINDINGS

What follows is a summary of the findings in the investigation and is not exhaustive of all information reviewed:

a. Police interview: Officer Brian Gervais

Officer Gervais was working the midnight shift on July 23, 2017, assigned to a one-person marked cruiser, designated Car Three. He was in full police uniform in a

marked police cruiser. Officer Gervais has been a Chelmsford police officer for nine months. He graduated from the Methuen Police NECC Academy in October of 2016. As of the date of this incident he had been a patrol officer for approximately nine months. At 7:40 a.m., Officer Gervais responded to a radio transmission reporting a 911 hang up call at 3 Clover Hill Drive. Dispatch reported that the call came in through Essex [Emergency Communications Center] and it was possibly domestic as arguing could be heard in the background. Officer Christopher Mauti, Car Two, advised via radio that he would respond too.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



b. Police interview: Officer Christopher Mauti

Officer Mauti was hired as a Chelmsford police officer in April of 2016 and, thereafter, attended a six month academy. After graduating from the academy in October of 2016, he began working for Chelmsford Police as a patrol officer. As of the time of this incident he had been an officer for nine months. During the course of the incident he did not discharge his department-issued firearm but he did discharge his department-issued taser.

On July 23, 2017, Officer Mauti worked the midnight shift in full police uniform and he was assigned to a marked patrol vehicle designated Car Two. At approximately 7:40 a.m., he heard a radio transmission dispatching Officer Gervais to 3 Clover Hill Drive for a possible domestic in progress. Officer Mauti recognized the address as one where there was prior police response and so Officer Mauti radioed that he would be heading to the call too. Dispatch advised that Essex Regional had received a 911 hang up

from a cell with loud screaming and arguing in the background. The call was dropped and there was no answer on call back. Essex Regional was able to ping the cell phone's location to the area of 3 Clover Hill Drive in Chelmsford.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. Police interview: Officer Craig Mead

Officer Mead has been a Chelmsford police officer since April of 2016. He has been a member of the National Guard since August of 2012. During the course of the incident he did not discharge his department-issued firearm but he did discharge his department-issued taser.

Officer Mead was working the midnight shift on July 23, 2017, assigned to a one-person marked cruiser, designated Car Four. He was in full police uniform. At 7:39 a.m., he was aware that Officer Gervais had been dispatched to 3 Clover Hill Drive for a possible domestic in progress. Officer Mead was familiar with this address through the multiple occasions the Chelmsford Police had been dispatched to the location for disturbances. At that time, Officer Mead began to head to that call.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

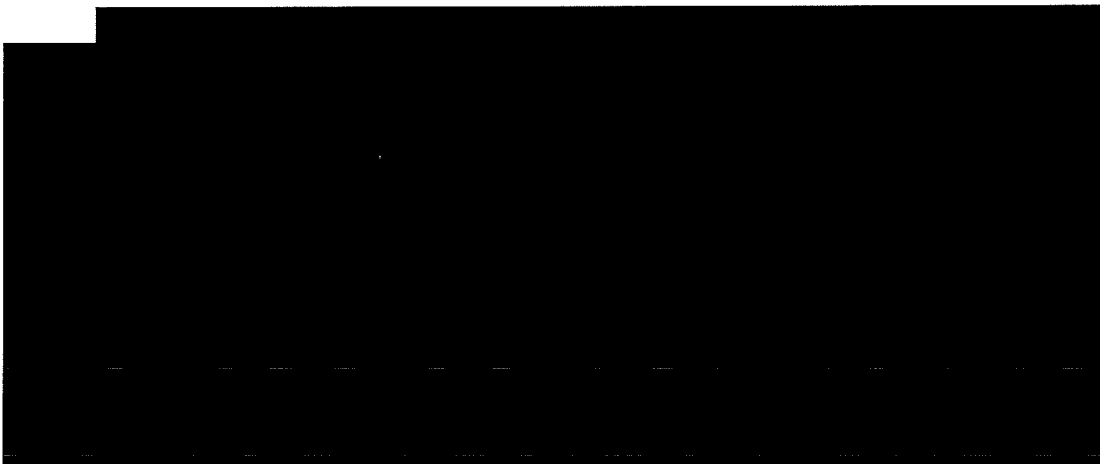
[REDACTED]

d. Police interview: Officer Kristin Leary

Officer Leary was the most experienced of all four officers who responded to the call. She has been a police officer in total for eighteen years. She was an officer in Westford, South Hadley and then Holyoke, before joining the Chelmsford Police Department in December of 2015. During the course of the incident, Officer Leary discharged her department-issued firearm twice and both shots struck Mr. Santiago.

On July 23, 2017, Officer Leary was working the midnight shift, assigned to marked police cruiser designated Car One, wearing a police uniform. She was approaching the end of her shift at 7:40 a.m. when Officer Gervais was dispatched to a disturbance at 3 Clover Hill Drive. Officer Leary was at the station monitoring radio transmissions for the call.

Officer Leary heard Officer Mauti radio that he was responding to the call. Just after Officer Gervais signed off at the call, he radioed again in a stressed tone of voice for more cruisers. Officer Mauti arrived at the call and, shortly after he did, Officer Mauti radioed for more cruisers and an ambulance. Officer Leary left the station and proceeded to 3 Clover Hill Drive.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

e. Civilian Witness I

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

f. Civilian Witness II

[REDACTED]

[REDACTED]

[REDACTED]

g. Summary of Events While Mr. Santiago Was in the Hospital

In the late afternoon of July 23, 2017, Massachusetts State Police Lieutenant Paul Bulman and Trooper Anthony Delucia, in connection with the investigation into the shooting by the police officer, attempted to interview Mr. Santiago at Tufts-New England. After he declined to speak to the police investigators, they were preparing to leave when Mr. Santiago suddenly jumped out of his hospital bed and assaulted the Chelmsford police officer who was guarding him and attempted to escape from the hospital. Mr. Santiago attempted to arm himself with a pair of surgical scissors as he fought with the three officers, two in plainclothes and one in uniform, but he was

ultimately subdued. Trooper Delucia sustained an injury to his knee which resulted in extensive swelling and bruising in the effort to subdue Mr. Santiago at the hospital.

The behavior exhibited at the hospital by Santiago was consistent in description with that described by the responding Chelmsford officers earlier that same day. It took three officers and medical personnel to subdue him and place him in four point restraints, despite injuries to his leg and head. He was violent, aggressive and extremely unpredictable in all his interactions with police that day.

V. RADIO TRANSMISSIONS

Chelmsford Police radio communications were obtained and reviewed as part of this investigation. Those records provide the following relevant timeline:

- 7:38:25 a.m. - 911 hang-up call received by the Essex Emergency Communications Center reporting a 911 hang-up call in from the area of 3 Clover Hill Drive – possible domestic – arguing commotion in background
 - ECC tried to call back the number no answer
 - call pinged by ECCC to 3 Clover Hill Drive
- 7:40:08 a.m. -Car 3, Officer Gervais, dispatched; it is reported as a 911 hang-up call. Sounded like arguing or dispute taking place; loud voices and arguing
 - Car 2, Officer Mauti, radios that he is heading that way
- 7:43:06 a.m. -Car 3, Officer Gervais, calls off at that location
- 7:43:37 a.m. -Dispatcher calls the number received from EECC and reaches the voicemail for the male resident of the home
- 7:43:54 a.m. -Car 2, Officer Mauti, calls off at that location
- 7:44:12 a.m. -Inaudible radio transmission [believed to be from Car 3]
- 7:44:37 a.m. -Radio transmission requesting, “other cars, please; send cars over here”
 - Car 1, Officer Leary, radios that she is en route
 - Radio transmission – Get Trinity (ambulance). He has a hammer
- 7:45:12 a.m. -Dispatcher calls Trinity and requests that they stage at 3 Clover Hill Drive

7:45:30 a.m. -Radio transmission, "he is throwing a hammer at us down here, send cars"

7:47:04 a.m. -Radio transmission requesting, "help"

7:48:36 a.m. -Car 1, Officer Leary, radios "shots fired" and requests a supervisor

From the radio transmissions it appears that the initial assault on Officer Gervais occurred in the time shortly after 7:43:06 a.m. and around 7:43:54 a.m. when Officer Mauti arrived outside the house. When Officer Mauti arrived, he observed Officer Gervais in the common area after the assault with fists had already occurred. He found Gervais ashen and pale and bleeding from a facial laceration. Between 7:44:37 a.m. (during which it was radioed that, "he has a hammer") and 7:45:30 a.m. (during which it was radioed "he is throwing a hammer at us.") Officers Gervais and Mauti later reported that they were attempting to get into the room to secure Mr. Santiago and assist the female. After the hammer was thrown by Mr. Santiago at Officers Gervais and Mauti, Officer Mead and then Officer Leary arrived. From the time the transmission at 7:45:30 a.m. ended and the transmission for "shots fired" at 7:48:36 a.m., a period of three minutes and six seconds – first Officer Mead arrived and then Officer Leary arrived, the four officers attempted to make entry, were assaulted with multiple shards of broken heavy glass mirror, some thrown as if they were spears and others as if they were martial arts stars, the officers deployed tasers and then two shots were fired.

Thus from the time of arrival of the first officer at 7:43:06 and the call of shots fired at 7:48:36 marking the end was a matter of five minutes and thirty seconds.

VI. BALLISTICS EVIDENCE AND SCENE DOCUMENTATION


Specialized personnel from the Massachusetts State Police Firearms Identification Section, Crime Scene Services Section and the Crime Laboratory responded to the scene. Ballistics personnel recovered one discharged round in a bedroom wall believed to be the round associated with Mr. Santiago's leg wound and two discharged cartridge casings.

Broken mirror glass was found on the floor in the bedroom, the hallway and the bathroom. The police also observed a wooden handle for a snow removal tool, with the end broken off and to a point.

VII. MEDICAL EVIDENCE

a. William Omar Santiago

Mr. Santiago was treated by Trinity EMS and Paramedics as well as Chelmsford Fire Department medics. He was transported to Lowell General Hospital where he was med-flighted to Tufts-New England Medical Center. Lieutenant Bulman spoke to the attending emergency room physician. He described two gunshot wounds to Mr. Santiago, one to the head, the other to the left leg below the knee. [REDACTED]



Santiago was discharged the following day, Monday, July 24, 2017.

VIII. CONCLUSION

In the totality of the circumstances, Officer Kristin Leary was reasonable in her belief that she, her fellow officers and citizens were in imminent danger of death or grievous bodily injury at the hands of William Omar Santiago, and that there were no other means available to protect the lives and safety of herself and others other than by discharging two rounds from her department-issued service weapon. Despite repeated efforts by all of the officers to order Mr. Santiago to submit to their lawful authority he chose instead to physically assault Officer Gervais with a flurry of punches that dazed and disoriented the officer and caused his facial injuries to bleed. Mr. Santiago escalated the encounter to one involving deadly force when he first armed himself with hammer and wielded it at the officers. Officer Gervais and Officer Mauti were next met with use of deadly force at the hands of Santiago when he threw, "tomahawk style," a hammer which narrowly missed the officers heads as it flew between them as they stood in the dark hall.

At that time the officers were joined by a third officer, Officer Mead and then a fourth officer, Officer Leary. Despite repeated demands that he come out of the room, stop and submit to their authority, Mr. Santiago remained in the room where he held the female and where he was assaulting her with his closed fists, in between his assaults on the officer. Mr. Santiago next began to throw large broken shards of a broken heavy plate glass mirror some six to eight inches in length as if they were spears, narrowly missing each of the officers they were directed towards. Officers Mead and Mauti attempted to use their department-issued tasers in an effort to stop Mr. Santiago's enraged assaults, but were unsuccessful in stopping him.

The officers were aware of the availability of a SWAT team being called, but given that the civilian witness was trapped in the room with Santiago and was pleading for help and telling Santiago to, "put that down," in the totality of the circumstances, the officers did not have the luxury of time to retreat and await the deployment of a SWAT team, fearing for the female's life and safety. Thus they had no choice but to deploy deadly force, at great risk to the officers. The investigation supports the finding that Officer Leary's discharge of her firearm two times, striking Santiago in the leg and grazing his head, was reasonable in all the circumstances and was not excessive. She used no more force than was necessary to stop Mr. Santiago and free the female from the room where he had her confined.

Under the circumstances, Officer Leary acted reasonably and lawfully. Therefore, no criminal charges are warranted. This investigation was limited to the issue as to

whether any crime was committed by the police in connection with the shooting and not into whether any departmental rule and regulations of the Chelmsford Police Department were violated.

This matter is now referred to the Chelmsford Police Department for whatever internal review may be deemed appropriate.

Mr. Santiago has been charged with four counts of armed assault to murder, six counts of assault with a dangerous weapon, kidnapping, assault and battery on a police officer and two counts of domestic assault and battery.