

FINDINGS OF DISTRICT ATTORNEY MARIAN T. RYAN REGARDING THE
OFFICER INVOLVED FATAL SHOOTING OF MARIO MEJIA-MARTINEZ IN EVERETT
ON APRIL 21, 2016

The Middlesex County District Attorney's Office and the Massachusetts State Police assigned to the Middlesex County District Attorney's Office have concluded the investigation into the fatal shooting of Mario Mejia-Martinez, 48, of Everett, who was shot by an Everett Police Officer on the corner of Chelsea Street and Broadway in Everett on April 21, 2016.

A thorough investigation into the circumstances surrounding the fatal shooting of Mr. Mejia-Martinez has revealed that Officer Joseph Pepicelli made multiple efforts to maintain a distance between himself and the suspect, repeatedly ordering him to drop his knife and that Officer Pepicelli fired his weapon only after Mejia-Martinez offensively charged at the officer assaulting him with the knife and coming dangerously close to actually stabbing the officer. Under the circumstances, Officer Pepicelli acted reasonably and lawfully. Therefore, no criminal charges are warranted.

I. INTRODUCTION

The District Attorney's Office, by statute, has the duty and authority to direct and control all death investigations within Middlesex County. As such, the primary goal of the investigation was to determine if any person bears criminal responsibility in connection with Mr. Mejia-Martinez's death. I designated my Chief of Homicide, Adrienne Lynch, to direct the investigation.

During the course of our investigation, recordings of the 911 calls as well as police radio communications were gathered and reviewed. Surveillance camera video was retrieved from two private businesses as well as three cameras at the intersection which fed into the server located at the Everett Police Station.

The officer who fired his department issued firearm wrote a police report and was interviewed. Other responding officers wrote police reports which were also reviewed. Additionally, ballistics tests were conducted and the results of those examinations were reviewed. Police reports, witness statements and the autopsy report were reviewed along with photographs of the scene and the autopsy.

II. APPLICABLE LAW

My 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 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 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 was about to be attacked, and that he or she was in immediate danger of being killed or seriously injured.

Our review of the facts reveals that, in the totality of the circumstances, Officer Pepicelli was justified in his use of deadly force. Officer Pepicelli’s use of force was not excessive in the circumstances and, therefore, the death of Mario Mejia-Martinez was a justified homicide in the reasonable exercise of self-defense, under Massachusetts law.

III. INVESTIGATIVE FINDINGS

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

a. Incidents at corner of Chelsea Street and Broadway in Everett, in front of the Cancun Restaurant:

On April 21, 2016, at approximately 4:33 p.m., Everett police dispatch received a 911 call from a woman motorist who reported there was a “guy” on the corner of Chelsea Street and Broadway in Everett, in front of the Cancun Restaurant. She reported that he had a knife sticking out of his pocket; was talking to himself; was angry; was acting “weird;” and that he was talking to everybody walking by. He was described as a Hispanic male, wearing a black shirt and jeans, maybe 40 -years -old. She told the dispatcher that she wanted to makes sure that the man was not ready to fight with someone.

As a result, Everett officers were dispatched to the area of Broadway and Norwood Street/Chelsea Street to investigate. This is a fairly busy intersection for vehicular and pedestrian traffic at that time of day. It was a sunny, warm, spring day. The first officer on scene was uniformed Officer Joseph Pepicelli who was alone when he encountered a man, later identified to be Mario Mejia-Martinez. During the course of that encounter, Mejia-Martinez, with knife in hand, assaulted Officer Pepicelli and Officer Pepicelli fired his department- issued firearm. There were numerous civilian witnesses in the area, on foot and in vehicles, who were interviewed during the course of the investigation. Officers who arrived on scene after the shooting were also interviewed. Troopers from the Crime Scene Services Section responded and documented

the scene. Troopers from the Firearms Identification Section also responded and collected ballistics related evidence, including the department issued firearm of Officer Pepicelli.

b. Police Radio Transmissions and 911 Calls

The Everett Police radio transmissions and the recorded 911 call were also reviewed. The recorded 911 call took 4 minutes and 46 seconds.

The radio transmissions revealed that on arrival at the call the officer asked for the description of the person with the knife to be transmitted again and it was repeated. Officer Pepicelli can next be heard yelling, “drop the knife, drop the knife.” Thirteen seconds after Officer Pepicelli repeated, “drop the knife,” another officer used his radio to report shots fired, and to request a supervisor and an ambulance.

c. Officer Joseph Pepicelli

Officer Joseph Pepicelli was working an evening shift on April 21, 2016, assigned to a one-person marked cruiser, designated the five car, which served as back-up to the units assigned to the four sectors on the city. He was in full police uniform. Officer Pepicelli has been an Everett police officer for ten years and prior to that had been a Boston municipal police officer for eleven years, for a total of twenty-one years’ experience as a police officer

At 4:33 p.m. while still at the police station, Officer Pepicelli heard a radio call for Car 142, Officer Dusablou, for a man in front of the Cancun Restaurant who was very agitated with a knife in his back pocket. Officer Dusablou responded over the radio that he was leaving from the station. At that time, Officer Pepicelli saw a cruiser pull out and thought incorrectly that it was Officer Dusablou responding to the call. Because it was a knife call, Officer Pepicelli left the station and headed to back-up Officer Dusablou on the call. He drove from Elm Street to Ferry Street and then south on Broadway. When he arrived, he was the only officer there. He stopped the cruiser just before the Cancun Restaurant, parked his cruiser and walked towards an individual on the corner, who appeared to be the person described in the transmission, but he radioed for the description to be repeated just to be certain. The dispatcher provided the description which matched the man on the corner. As Officer Pepicelli approached, a bystander pointed towards the man saying, “that’s him, that’s him.” The officer stood at the front of his cruiser and kept his distance, because of the report of a knife being involved.

Officer Pepicelli waved to the man to come over to him saying “Mira, mira” “Come here.” The man said, “No.” The officer repeated, “Mira. Come here, come here. Let me talk to you. Come here.” At that point, the man reached towards his back pocket and the officer said, “No. No.” The man then ran toward the edge of the sidewalk and the officer yelled, “no, no” and was reaching for his taser. All of a sudden the man snapped out his knife, so instead the officer took out his department issued firearm and held it “low ready.” That was because the man was within 21 feet of him. The officer had been trained that was the danger zone for confronting someone with a knife. Officer Pepicelli keyed his radio and immediately began to yell, “Drop the knife. Drop the knife,” so the other officers responding would know that a knife was being shown and that he was in imminent danger and needed help. The man charged at Officer

Pepicelli with the knife in hand swinging it at the officer, as the officer backed away and ran to the side. The officer thought, “Oh, God, it’s happening.” He became worried about using his gun because there were people standing on the sidewalk behind the man with the knife, so he held his gun at low ready. He was afraid that the man would run at him. As the man ran off the sidewalk he charged straight toward the officer in the street. The officer was moving backwards and away the whole time. As Mario Mejia-Martinez kept swinging the knife, the officer fired one shot low, figuring the man would stop and concerned that there would be “pass through” and he would hit one of the group of pedestrians who had gathered behind the suspect. However, the man did not stop and came straight at the officer, swinging the knife, forcing the officer to jump to the side and move back to avoid being struck. The officer fired upwards because he did not want to hit the concrete (which could cause a ricochet). The last shot struck the man and caused him to fall to the ground. Officer Pepicelli believed that the man would have stabbed him in the neck, head and face if he had not defended himself.

In the immediate aftermath, Officer Pepicelli could not hear, was experiencing tunnel vision and was looking out for a second threat. He saw a few Everett officers come upon the scene. One of them took the knife out of the man’s hand and they started CPR. Witnesses approached Pepicelli as did his supervisor. He was then placed in an ambulance himself.

d. Officer Paul Dusablon

Officer Paul Dusablon was assigned to a marked cruiser and was in full uniform on the afternoon of April 21, 2016. He was at the Everett Police Station when he received a radio dispatch to respond to the Cancun Restaurant for a man talking to himself, acting strangely with a knife in his back pocket. He radioed that he would be out of the station in a minute. He got his keys, left the station and responded to the call via Elm Street to Ferry Street to Broadway. He could see Officer Poirier behind him as they headed south on Broadway toward the call. As he got close to the area of the Cancun Restaurant, he heard Officer Pepicelli over the radio saying, “drop the knife, drop the knife.” As he pulled up he could see Officer Pepicelli backing up with his gun drawn as the man was going toward him. Officer Pepicelli twice yelled, “drop the knife.” The man bent down a bit into a charging position and ran at Pepicelli. When the man was three to five feet away, Officer Pepicelli shot the man twice, but the man still kept charging toward him. Officer Pepicelli shot again and the man went down. Officer Dusablon observed all of this from inside his cruiser. The man was on the ground. At the time of the shooting, it was just Officer Pepicelli and the suspect, no other officers were outside.

Officer Dusablon exited his cruiser and ran over to the man on the ground. He then returned to his cruiser to get his medical equipment. When he got back to the man, other officers were there rendering medical attention. He then drove his cruiser to block off Norwood Street. Next he asked if anyone saw anything and witnesses came forward and he took names which he provided to the investigators. Officer Dusablon felt that Officer Pepicelli had no choice but to shoot to stop the threat.

e. Officer Joseph Poirier

Officer Joseph Poirier was assigned to a marked police cruiser and was in full uniform. At 4:20 – 4:25 p.m., roll call for his shift had just concluded and he was making his way outside

when he heard a radio transmission about a man outside of the Cancun Restaurant talking to himself, with a knife in his back pocket. Officer Pepicelli had already left for the call before Officer Poirier got outside the station. Officer Dusablon left and Officer Poirier followed him down Elm Street, right onto Ferry Street and then left onto Broadway. As he got closer to the location, he heard Officer Pepicelli radio for the description. When he was within a few blocks of the intersection, he heard Officer Pepicelli over the radio saying, “drop the knife, drop the knife.” Officer Poirier pulled in behind Officer Pepicelli’s cruiser near the corner of Broadway and Norwood Street in front of Dempsey’s Restaurant. Initially he could not see Officer Pepicelli or the man. Then he saw Pepicelli backing out quickly into on-coming traffic at the intersection of Broadway and Norwood Street/Chelsea Street followed closely by a Hispanic man charging at him with a knife. The man got within a few feet of Officer Pepicelli. Officer Poirier could see the glint of the knife in the man’s hand as the man advanced toward Officer Pepicelli who was backing away from the man with his firearm drawn. Officer Pepicelli fired his gun and the suspect went down. Officer Poirier exited his cruiser as other officers were arriving. Officer Poirier saw the man moving and saw the knife in his hand. Officer Poirier drew his firearm to provide cover as one of the other officers removed the knife from the man’s hand. Officer Poirier then re-holstered his weapon and immediately started first aid.

f. Officer James MacGregor

Officer James MacGregor was assigned to “old” marked cruiser 144 and was in full police uniform on the afternoon of April 21, 2016. When the radio dispatch concerning a man not acting quite right with a knife in his back pocket was broadcast, Officer MacGregor was still at the station. He headed to the call from the station traveling from Elm Street to Ferry Street to Chelsea Street. Over the radio he heard Officer Pepicelli saying, “drop the knife,” “he’s got a knife.” Officer MacGregor activated his siren and, as he pulled up, he saw the man lying in the middle of the intersection and he saw blood. He put on gloves and approached the man and observed that the knife was still in the man’s hand. The man was moving and still breathing. Officer MacGregor asked the other officers to cover him as he disarmed the man by grabbing his right wrist and removing the knife from his hand. Officer MacGregor then threw the knife five feet to the side and started first aid. Officer MacGregor did not witness the shooting.

g. Civilian Witnesses I

This 35 -year -old female was the 911 caller. She was driving a black Toyota Sienna. She had come out of Bread and Company on Norwood Street and was in the left lane to turn north on Broadway. She saw the man talking to himself and pacing on the corner. He was acting “weirdly” and “agitated like he was going to fight.” He was speaking Spanish, mumbling angrily. She saw the blade of a knife, 4 – 5 inches long, facing up, sticking out of his back pants pocket. She was scared and rolled up her window. She saw another man walk past this man and look back as if the man was talking to him. She called 911 and pulled over on Broadway. She could see the man pacing and walking in a circle. She was in a “no parking” zone, so she moved down the street to park and walked up on the same side of Broadway as the man. She saw the police officer step calmly out of his cruiser and approach the man. The man was angry about the police presence, flailing his arms and telling the police officer to go away. He made dismissive hand movements, brushing the officer off. The man, (later identified as Mario Mejia-Martinez), went towards the officer in front of the cruiser and she could not see them from her vantage

point. She heard the officer say, “put the knife down.” She heard him say, “drop the knife” at least two times. She saw the officer had his gun out. The man did not seem drunk, just nervous and angry. After the shooting, she heard a Spanish woman, who had just come out of a store and did not witness the shooting, say the man was shot because he was Spanish. The witness said that this was just not true.

h. Civilian Witness II

This, 36 -year -old male and his girlfriend, were walking on Norwood Street headed to the Family Dollar Store on Broadway. As they approached the intersection of Norwood Street and Broadway, the witness noticed a man (later identified to be Mario Mejia-Martinez) on the sidewalk talking to himself. He noticed that Mejia-Martinez had a knife in his back pocket. The witness and his girlfriend went into the Family Dollar store and left within five minutes. As they were walking on Broadway back towards Norwood Street, the witness noticed an Everett police cruiser coming down Broadway towards Norwood Street with its emergency lights activated. The cruiser came to a stop and the lone police officer, Officer Pepicelli, exited the driver’s side. Mejia-Martinez immediately took the knife from his back pocket and began screaming, “Get outta here, get outta here!” The witness observed Officer Pepicelli immediately back away and draw his firearm. Officer Pepicelli yelled to Mejia-Martinez to, “drop the knife” approximately five to seven times as he backed away. Mejia-Martinez continued to advance on Officer Pepicelli and ultimately lunged and stabbed at the officer who fired at the man until he collapsed to the ground. After the incident, he heard a woman saying that the police officer only shot Mejia-Martinez because he was of Spanish descent. The witness told Trooper James Connolly of the Massachusetts State Police that the officer had no choice but to defend himself.

i. Civilian Witness III

A 20 year old male was at the bus stop in front of Tres Gatos Lounge listening to music through headphones. His attention was drawn across Norwood Street because he heard the man (later identified to be Mejia-Martinez) screaming. The witness took his headphones out for a moment, but couldn’t understand what Mejia-Martinez was yelling. When the police officer arrived, Mejia-Martinez directed his yelling at the officer. Mejia-Martinez was brandishing a knife at the officer who was yelling, “drop the knife!” and, “put it on the ground!” The officer was backing away and Mejia-Martinez was holding the knife in front of him at about waist height and constantly advanced towards the officer. Mejia-Martinez was yelling but the witness (who speaks Portuguese) could not understand anything he was saying. The officer was “loud and clear” as he repeatedly told Mejia-Martinez to drop the knife. Mejia-Martinez brought the knife high and charged at the officer “like he was going to stab him.” The witness said the officer fired his pistol approximately four times until the man collapsed. The witness estimated that he was 15—20 feet from the incident.

j. Civilian Witness IV

This 42- year -old male was stopped in traffic in his Jeep Wrangler on Norwood Street waiting for a red light behind a green Suburban. The witness was in the left lane and was waiting to turn left on to Broadway. He observed a man standing on the sidewalk at the corner of Norwood Street and Broadway. The man appeared to be talking to the driver of the Suburban

and bothering pedestrians as they walked by. The witness then saw the police officer approach the male on foot from the crosswalk on Broadway. As the officer approached he addressed the man in a casual manner. The man raised his arms as the police officer was addressing him and replied to the officer. Although the witness could not hear what the man was saying in response to the officer's approach, he observed the man "shooing" the officer away with his arms. At this point, the witness could see the man's back and he saw the man reach into his right back pants pocket and pull out a knife. The witness then heard the officer tell the man to drop the knife. As the officer told him to drop the knife the officer was backing away from the man and drew his service weapon. The man continued to advance on him. The officer kept trying to create distance between himself and the man. The officer gave the man four or five verbal commands to drop the knife. The commands became more forceful as the incident continued. Initially, the man had his hands at waist level. As the male advanced on the officer, his hands went up to about shoulder level. The man moved toward the police officer in a rushing motion and the officer shot the man twice. After the man was shot, he continued to move toward the officer in a rushing motion and the officer shot the man four or five more times. He remembered two quick shots and then four or five more shots in quick succession. The witness observed the man fall to the ground very close to the officer.

k. Civilian Witness V

A 34- year- old male was stopped in traffic in his Audi in the right lane of Norwood Street and was the first car in line at Broadway waiting to turn right onto Broadway. He saw the police officer approach a man, later identified to be Mejia-Martinez, on the sidewalk at the corner of Broadway and Norwood Street. The man had his arms in the air and the witness heard the officer tell the male to calm down. The man was mumbling but the witness could not hear what he was saying. The witness then saw the male reach into his rear pocket. At that time the officer drew his service weapon and shouted at the male to "drop the knife." The man approached the officer as the officer backed up and away from the man. The man continued to move on the officer. The officer was retreating and shouting at the man to, "drop the knife." The officer shouted this at least three times. The witness estimated that the man held the knife for about thirty to forty seconds and then charged at the officer as if he was trying to stab the officer. The officer then shot the man five or six times and by the last shot the man was very close to the officer. The witness then saw other officers arrive on scene. The witness said that if the officer did not shoot the male, the man would have killed him.

l. Civilian Witness VI

This 38-year -old male was working as a bartender at the 8/10 Bar and Grille, at 8 Norwood Street, on April 21, 2016, and was outside smoking a cigarette. He looked at the corner of Norwood Street and Broadway and observed a uniformed police officer in the middle of Broadway. The police officer was speaking to a Hispanic male in his forties, who wearing jeans, boots, and a blue shirt. The male speaking to the police officer had a silver knife in his hand which was tucked behind his forearm. The police officer yelled at the male, "Put the knife down," approximately six to seven times. The police officer began to back up away from the man as he continued to yell, "Put the knife down!" The male then moved the knife so that the blade was now pointed outward instead of riding along his forearm. The male began walking towards the police officer and was yelling, "[Expletive] you; [expletive] you!" As the male was

yelling at and walking towards the police officer, the officer was backing up. The male reached the curb at the corner of the Cancun Restaurant and the police officer stopped in the middle of the street. The police officer yelled again, "Put the knife down!" The male then walked towards the police officer and swung the knife, which was in his right hand, at the police officer. The male swung the knife twice at the police officer, with the second swing appearing to be at the police officer's face. The witness thought that the male hit the police officer on the second swing. The witness saw the police officer duck as the knife was swung at him. The police officer then shot approximately five times and the male fell to the ground. The witness stated that when the male swung the knife at the police officer that he estimated him to be at arm's length from the officer.

m. Civilian Witness VII

This 44 -year -old male was on Broadway by the Tasty Garden on April 21, 2016. The witness had been in Santander Bank and had exited the bank at about 4:30 p.m. When he exited the bank, he saw the flashing lights from an Everett police cruiser that was stopped on Broadway. He saw a Hispanic male with a goatee "going toe to toe" with a police officer. The male was about ten feet away from the officer. The witness heard the officer warn the male to get down two or three times. The witness saw the Hispanic male holding something in his right hand and observed the male dip his shoulders and charge at the officer, closing the distance between them. He then heard four gun shots.

n. Civilian Witness VIII

A 26 year -old- female was walking on Norwood Street towards Broadway on the opposite side of Norwood Street from where the incident started. As she approached the corner near Tres Gatos Lounge, she was looking in her purse to get a cigarette. The first indication she had that there was a problem was when she heard the police officer shouting, "drop the weapon" three or four times. She observed a male running towards the officer with a knife. She also heard other bystanders asking the male what he was doing. She stated that she saw the male run at the police officer and she saw the officer shoot the male four or five times. The male fell to the ground in front of her.

The witness stated that she felt the police officer did the right thing and that he was defending himself.

o. Civilian Witness IX

This 47 -year old- male was inside the Regal Mexican Bar and Grill, located at 440 Broadway in Everett. The witness left the restaurant on foot to go and pick up something at a store down the street. When he left he saw a short Hispanic male, later identified to be Mario Mejia-Martinez, at the corner of Broadway and Norwood Street. The man was walking in circles and talking to himself.

When the witness returned from the market he walked inside the establishment and sat at a table near the front window overlooking Broadway and Norwood Street. He saw a uniformed police officer get out of the cruiser and speak to the Hispanic man he had observed earlier talking

to himself on the corner. The witness then saw the Hispanic man put his hands up in an offensive motion two times at the police officer. The witness noticed a knife in the man's right hand. When the police offer spoke to the man, the man walked towards the police officer with the knife in his hand. The police officer backed up twice to get away from the man with the knife. The witness saw the police officer raise his gun and then heard what he thought was four gunshots. Right after that more police officers arrived.

p. Events Within an Hour Prior to the Shooting

On the evening of April 21, 2016, Everett police received a call from a female, 53, of Everett. She said that she was on Norwood Street sometime after 3:45 p.m. stopped at the light at the intersection of Broadway. As she was stopped at the light, she had her window rolled down and she happened to observe a man who was yelling out loud. He made eye contact with her and started to walk towards her vehicle from the area of the Cancun Restaurant. She described the male to be approximately 5'6" – 5'7" wearing blue jeans and a black hat with writing on it. As the male got closer to her vehicle he took off the black shirt and had a button down shirt underneath. He was yelling in another language, but she did not recognize it to be Spanish. While this male was yelling at her, she noticed that he had a silver knife sticking out of the back of his right pocket. At this point she rolled up her window and drove away, nervous that this male was "acting crazy." When she heard about the incident on Broadway at Norwood Street, she thought it might be related.

On April 21, 2016, at approximately 4:06 p.m., a 48-year-old male was sitting on the front steps of the porch next to the driveway on Linden Street in Everett with another 53-year-old male. The 48-year-old male is the landlord at that address. At 4:09 p.m. they saw Mejia-Martinez stumble into the driveway next to them mumbling to himself and then sit on the retaining wall taking off his back pack. They said, "Hey, Bud, can I help you?" Mejia-Martinez then took trash out of his back pack and threw it on the front lawn. The male told him to, "get the [expletive] out of here" and came off the porch. The man was mumbling something, but they could not understand him. It was not Spanish, it was nonsense. The man, later identified to be Mejia-Martinez, then pulled out what appeared to be a pint of liquor, chugged it and smashed the glass bottle in the middle of Linden Street. The man kept looking back at them like he wanted to fight, but he didn't act on it. The man walked away, crossing Linden Street towards Church Street. At the first house on Church Street he walked up the steps and spoke to a female for a second and then continued down Church Street towards Broadway. The male called 911 and the Everett police responded to Linden Street at 4:12 p.m. on April 21, 2016. The man had left before the officer's arrival. The male's house is approximately two-tenths of a mile from the corner of 432 Broadway.

The female witness on Church Street was sitting on her front porch and a Hispanic man, later identified to be Mario Mejia-Martinez, walked by her house. The man seemed to be intoxicated as he walked by her house and pointed at her when he saw her. The man spoke to her, but she did could not understand him. He walked around in the area in front of her house and broke a whiskey bottle, or what appeared to be some type of glass alcoholic container on the street in front of her house. He then walked down the hill towards Everett Square. She was alarmed by this, but did not call the police.

IV. SHOTSPOTTER

Everett utilizes a system known as ShotSpotter. At 4:33:34 p.m. on April 21, 2016, ShotSpotter detected a multiple gunshot incident at 2-8 Norwood Street. The system detected and located a six shot event. Those shots occurred between 4:33:34 p.m. – 4:33:36 p.m. A recording of the event as detected by ShotSpotter was provided to investigators and shows the six shots were fired in three seconds.

V. SCENE EXAMINATION

Specialized personnel from the Massachusetts State Police Firearms Identification Section, Crimes Scene Services Section and the Crime Laboratory responded to the scene. At the scene State Police took custody of Officer Pepicelli's firearm, a .45 AUTO caliber Glock model 21 semi-automatic pistol for further examination. Police recovered six discharged cartridge cases from the scene which is consistent with the number of gunshot wounds to the deceased. One spent projectile was recovered from Mejia-Martinez's clothing and three spent projectiles were recovered from the deceased at autopsy. Officer Pepicelli's firearm was tested and found to be in working order. A microscopic comparison was done of the test fired specimens with the discharged cartridge casings and spent projectiles recovered. Massachusetts State Police Lieutenant David Cahill formed the opinion that the six discharged cartridge casings and the four spent projectiles were all discharged by Officer Pepicelli's firearm. A knife was also collected at the scene and was taken to the crime laboratory for further examination. It is a "Crusader" knife with a blade length of approximately 4-1/2 inches. Photos of the knife are attached to this report.

On the corner of Norwood Street and Broadway, in front of the Cancun Restaurant, police recovered a backpack believed to belong to Mejia-Martinez. Mejia-Martinez did not have any identification on his person or in his backpack. Fingerprints were taken from the deceased and were a match to prints in the database maintained by United States Immigration and Naturalization Enforcement, Enforcement and Removal Operations of the United States Department of Homeland Security. Documentation provided to investigators indicates that on June 29, 2004, Mario Mejia-Martinez, date of birth 1/29/1968, was arrested near Douglas, AZ. He indicated his primary citizenship was Mexican and he was voluntarily returned to Mexico. To date, investigators have been unable to locate where Mejia-Martinez had been living at the time of his death. He had a family in El Salvador and a brother in Everett. The deceased's brother made the identification of him as Mario Mejia-Martinez.

VI. VIDEO CAMERA FOOTAGE

At the corner of Chelsea Street and Broadway in Everett, there are multiple cameras pointed at the area of the incident. The cameras were installed by LAN-TEL Communications, Inc. of Norwood, MA. The images captured by those cameras are transmitted to the server located at the Everett Police Station. On the evening of April 21, 2016, investigators located images from three cameras which covered the intersection where the shooting occurred. Although parts of the incident were recorded, there were times when the cameras froze and the data never made it to the server.

On April 26, 2016, LAN-TEL, at the request of investigators, examined the system to determine whether any of the data could be recovered. The technician informed investigators that he looked particularly at the video from the incident that occurred at that intersection at around 4:30 p.m. on April 21, 2016. He observed that there are significant gaps in the recordings. In his professional opinion, the gaps were caused by too much data trying to get through the wireless network link. These cameras at Everett Square are connected to the server at Everett Police Station by a point-to-point wireless network. The bandwidth on these links is limited and it is subject to environmental interference.

To make the cameras operate better prospectively, the technician reduced the frame rates on all four of these cameras to seven frames per second. Once this was done, the streaming from these cameras was greatly improved and the gaps in the recording were greatly reduced. The technician left the cameras at their highest resolution so that the frames that are recorded will be of maximum forensic value going forward.

In response to the question whether the missing frames could be recovered, the technician said, regrettably, the answer is no. These frames were lost in transit because of the network bandwidth issue and never made it to the server to be recorded.

A private business, located on Norwood Street in Everett, had a surveillance camera pointed at the intersection of Broadway and Norwood Street that captured the entire incident. The video shows that as soon as the officer approached Mejia-Martinez, Mejia-Martinez reached for and removed the knife from his right rear pants pocket. The officer immediately retreated backward into the southbound travel lane of Broadway. The officer is shown using his shoulder radio microphone and holding his gun at his side, in the "low ready" position, at 19 seconds into the encounter. The officer continued to back up south on Broadway, with his gun still down at his side, as he gestured with his left hand for the man to stay back. At 28 seconds into the encounter, Mejia-Martinez, with the knife held in his right hand begins to run towards the officer. As he does so, the officer brought his firearm up and pointed it at Mejia-Martinez. Nevertheless, Mejia-Martinez charged at the officer who continued to run backwards and then fired as Mejia-Martinez came within a few feet of the officer swinging the knife at him. Mejia-Martinez is seen falling to the ground at 32 seconds into the encounter just as a second cruiser pulls up to back-up Pepicelli.

Another private establishment, a business located on the corner of School Street and School Street Place in Everett, one block away from the intersection of Broadway and Norwood Street, also has a surveillance system which records in the direction of that intersection. Although it is a block away and the view of the intersection is obstructed on this video footage, the officer's retreat and the shooting can be seen.

VII. OFFICE OF THE CHIEF MEDICAL EXAMINER

On April 22, 2016, an autopsy was performed on the deceased by Dr. Henry Nields, the Chief Medical Examiner. There were six entrance gunshot wounds to the body, and three exit wounds. Three spent projectiles or fragments were recovered from the body.

The cause of death was determined to be gunshot wounds of the head and torso. Dr. Nields performed the autopsy and described the following penetrating wounds:

- (1) entered left eyebrow traveled rightwards, slightly downward and slightly backwards to just in front of the right ear;
- (2) entered the right upper axillary chest near the shoulder and traveled backwards, downward and slightly leftward;
- (3) entered the left chest just above the nipple and traveled backwards and downward to the abdomen;
- (4) entered the middle of the chest and traveled backward, rightward and downward;
- (5) entered mid abdomen above the umbilicus, traversed through the abdomen, small intestines, right pelvis and right lower back, traveling backward, rightward and downward; and
- (6) entered the lower abdomen traveled backward, downward and to the right, through bladder, underneath the bony pelvis and to the right.

Toxicology testing yielded positive findings for alcohol. The results were .13 g% from the pooled/cavity blood and .04 g% in the vitreous humor.

VIII. CONCLUSION

In the totality of the circumstances, Officer Joseph Pepicelli was in imminent danger and apprehension of being stabbed and killed by Mario Mejia-Martinez when he shot him. Despite repeated efforts by the officer to maintain a distance between himself and the suspect and his repeatedly ordering him to drop the knife, Mejia-Martinez offensively charged at the officer assaulting him with the knife and coming dangerously close to actually stabbing the officer before he was shot. Officer Pepicelli's use of force was not excessive in the circumstances and, therefore, the death of Mario Mejia-Martinez was a justified homicide in the reasonable exercise of self-defense under Massachusetts law.

On April 21, 2016, Mario Mejia-Martinez was acting in a manner that caused concern on the part of citizens sufficient that the Everett police were contacted by civilians reporting his behavior. One-half hour before the shooting police were called by a man on Linden Street who described a man, later identified to be Mario Mejia-Martinez, drinking from a whiskey bottle and then smashing it in the street. The second call, which brought Officer Pepicelli to the scene of the shooting, was from a motorist who saw Mejia-Martinez walking in circles, talking to himself, pacing, acting "weirdly" and "agitated like he was going to fight." The caller saw the blade of a knife, 4 – 5 inches long, facing up, protruding from his pants pocket. She was frightened by his actions and called the police reporting this to them.

Officer Pepicelli's account of the encounter with Mejia-Martinez was corroborated in its entirety by the video police obtained from a private business on Norwood Street which captured the officer's arrival on the scene, the officer's approach to Mejia-Martinez, the officer's initial reaction to first reach for his taser until Mejia-Martinez began to respond in an agitated manner and to quickly reach for his firearm when Mejia-Martinez reached for, and removed, the knife from his back pocket. The video shows the officer's immediate retreat from the confrontation and his backing up quickly into the travel lane of Broadway southbound, as cars on Broadway

had the right of way and were traveling southbound. The video shows actions consistent with the officer's description of reaching for his shoulder radio microphone as he yelled for Mejia-Martinez to drop the knife on several occasions. The video depicts Officer Pepicelli's evasive movements on Broadway and Norwood Street to avoid a confrontation by all means possible as he waited for other officers to arrive. The video shows Mejia-Martinez charging at the officer with the knife in hand in an assaultive manner, placing Officer Pepicelli in imminent fear of death or serious bodily injury. Officer Pepicelli had avoided using deadly force until Mejia-Martinez came dangerously close to stabbing him and fired only to protect himself. Reasonable persons observing the incident unfold believed the officer was in imminent danger of death or serious bodily injury. Officer Pepicelli's account was corroborated by the numerous civilians to the broad daylight encounter at the busy intersection as well as by the location and directionality of the bullets as documented during autopsy by the Medical Examiner.

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



Knife found in possession of Mejia-Martinez

