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FOR IMMEDIATE RELEASE:
November 8, 2019

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**ATTORNEY GENERAL DONOVAN ANNOUNCES CONCLUSION OF REVIEW OF
USE-OF-FORCE INCIDENT INVOLVING BURLINGTON POLICE OFFICER**

BURLINGTON – Attorney General T.J. Donovan announced today that his office has reviewed the officer use-of-force incident that occurred on March 11, 2019, in Burlington, Vermont. The Attorney General’s Office is declining to prosecute Burlington Police Department Officer Cory Campbell for charges related to the use of force against Douglas Kilburn. Based on the totality of the circumstances, the Office concluded that it was reasonable and justified for Officer Campbell to use force to defend himself. It should be noted, however, that Officer Campbell’s actions in his second interaction with Mr. Kilburn, while justified under the law, did contribute to the situation in which the need for self-defense arose. Training and accountability on de-escalation techniques are essential to ensuring that officers are not putting themselves and citizens in danger. It is the Office’s hope that Burlington Police Department will take necessary steps to ensure that their department is equipped with the tools they need to effectively and safely respond to members of our community in crisis. In reaching this decision, the Office considered the opinion of a police use-of-force expert and reviewed all the materials provided by the Vermont State Police, who conducted the investigation.

On March 11, 2019, Burlington Police Officer Cory Campbell was dispatched by the Burlington Police Department (BPD) to the University of Vermont Medical Center (UVM Medical) for an irate individual yelling in the waiting room to the point of spitting and arguing with security and refusing to leave. When Officer Campbell arrived at UVM Medical he encountered the individual, Douglas Kilburn.

Prior to Officer Campbell's arrival, Mr. Kilburn had been at the hospital with his wife, Cheryl Kilburn, who was receiving treatment. When Officer Campbell arrived at UVM Medical he met Mr. Kilburn in the parking lot. After speaking with Mr. Kilburn, Officer Campbell then spoke with UVM Medical Security and they agreed that Officer Campbell would escort Mr. Kilburn through the emergency department to his wife's room.

Officer Campbell returned to Mr. Kilburn and then escorted him through the emergency department to his wife's room. Officer Campbell asked Mr. Kilburn to remain civil before leaving him in the room. After a brief discussion with medical staff, Officer Campbell left the area. Officer Campbell was then dispatched to provide a ride from the emergency department to a shelter for another individual.

However, soon after Officer Campbell left Mr. Kilburn in his wife's room at the hospital, staff again requested UVM Medical Security to remove Mr. Kilburn from his wife's room, making the decision that his behavior was not conducive to his wife's health, who was critically ill. UVM Medical Security Officers asked Mr. Kilburn to leave and escorted him out of the hospital. Mr. Kilburn swore and screamed at them the entire way.

A short time later, UVM Medical Security Officer Heather Gray observed Mr. Kilburn pull his vehicle into the ambulance bay of the emergency department. This is a restricted area with signs to that effect. UVM Medical Security Officer Gray approached Mr. Kilburn in the ambulance bay. At the same time, Officer Campbell was also exiting the emergency department with the individual he was transporting to the shelter.

UVM Medical Security Officer Gray confronted Mr. Kilburn telling him he had to move his vehicle from the area. Mr. Kilburn continued to argue with her and did not move his vehicle. Officer Campbell asked UVM Medical Security Officer Gray if they were going to trespass Mr. Kilburn and she stated she did not know. Mr. Kilburn then said they do not need to trespass him and that he was leaving. As Mr. Kilburn started to drive away, he stopped and pointed out of his

vehicle saying, "Christ, I've known that guy for thirty years." The following exchange ensued:

Officer Campbell: "Shut the [expletive] up and leave. Go, they don't want you here."

Mr. Kilburn: "Did you just swear at me?"

Officer Campbell: "Yes, I did."

Mr. Kilburn: "You're a [expletive] punk."

Officer Campbell: "Yeah whatever." (Officer Campbell walks away.)

Mr. Kilburn: "Get the [expletive] [inaudible] before I come over."

After this exchange, Officer Campbell turned around and approached Mr. Kilburn's vehicle. At the same time Mr. Kilburn placed his vehicle in park and began to exit his vehicle. UVM Medical Security Officer Gray yelled "no" at Mr. Kilburn.

As Officer Campbell approached the vehicle, the driver side door of Mr. Kilburn's vehicle opened and Mr. Kilburn began to get out saying, "He ain't got the right to swear at me." Officer Campbell then put his right hand on the door and then on Mr. Kilburn's left shoulder as Mr. Kilburn continued to exit his vehicle with the seatbelt still on his left shoulder. Mr. Kilburn repeated, "You ain't got the right to swear at me. [Expletive]." Officer Campbell grabbed Mr. Kilburn's left arm with his right hand and attempted to put it behind Mr. Kilburn's back. Mr. Kilburn continued to move forward, getting out of the vehicle. Once out of the vehicle, Mr. Kilburn punched Officer Campbell with his right fist, hitting Officer Campbell's lower left jaw. Officer Campbell then punched Mr. Kilburn in the right eye area three times as Mr. Kilburn was brought to the ground. UVM Medical Security Officer Richard Howard then aided Officer Campbell in securing Mr. Kilburn and placed him in handcuffs.

Mr. Kilburn sustained injuries to his face as a result of being punched and was immediately treated at UVM Medical. He was arrested and charged with disorderly conduct and assault on a police officer on March 11, 2019 and released on conditions. Mr. Kilburn was released from UVM Medical on March 12, 2019.

On March 14, 2019, BPD officers conducted a welfare check at the request of Mr. Kilburn's wife. At Mr. Kilburn's residence, officers found Mr. Kilburn deceased in his bed. The Office of the Chief Medical Examiner of Vermont conducted a final autopsy report and Vermont Chief Medical Examiner Dr. Steven Shapiro made the following findings: Cause of Death: Undetermined terminal mechanism due to multiple underlying conditions; Contributory Cause: Hypertension; Cardiac and cerebral vascular disease; Obesity (body mass index 33.6; Diabetes type 2; skull fractures due to blunt impact; Manner of Death: Homicide (struck by other). The medical examiner by law only has five options in manner of death; natural, homicide, accident, suicide and undetermined. Additionally, Dr. Shapiro included a further clarifying statement that "homicide is a medical, not legal, designation."

The Office, in thoroughly investigating this matter, consulted with Steve Ijames to review this incident specific to police practices and policy. Steve Ijames is a highly recommended expert on police practices, including use of force and has trained law enforcement on these issues both here in the United States and abroad. Mr. Ijames evaluated both interactions between Officer Campbell and Mr. Kilburn. In the first interaction, Mr. Ijames noted that Officer Campbell "demonstrated empathy, patience, and professionalism" in regard to Mr. Kilburn; however, that was not the analysis of his second interaction. In his second interaction, Mr. Ijames noted two factors that precipitated the "onset of Mr. Kilburn's assaultive course of action/behavior directed at Officer Campbell." According to Mr. Ijames, the first factor was Officer Campbell's language "telling him to 'shut the expletive up and leave. Go. They don't want you here,'" and the second factor was Officer Campbell's "return to Mr. Kilburn's vehicle after walking away." Mr. Ijames notes that "officers should not use profanity when verbally interacting with citizens" and that "contemporary police training, policy and practice generally prohibits officers from using rude or profane language." However, Mr. Ijames concluded that the above precipitating factors did not create "a basis or justification" for the "assaultive behavior directed by Mr. Kilburn towards

Officer Campbell.” In Mr. Ijames’s opinion, the “closed fist strikes” delivered by Officer Campbell in response to Mr. Kilburn’s initial “closed fist” strike “were in self-defense, based on adequate cause and provocation and were generally consistent with contemporary police training, policy and practice.”

Under Vermont law, a person who kills or wounds another “in the just and necessary defense of his own life...shall be guiltless.” 13 V.S.A. § 2305(1). In Vermont, self-defense is justified when (1) the defendant was not the initial aggressor; (2) the defendant was justified in using a reasonable amount of force against another; and (3) he reasonably believed (a) that he was in immediate danger of unlawful bodily harm from his adversary and (b) that the use of such force was necessary to avoid this danger.

Therefore, in our analysis, based on the totality of the circumstances, we concluded that it was reasonable for Officer Campbell to use force to defend himself. (1) Officer Campbell was not the initial aggressor as Mr. Kilburn delivered the first punch, a closed fist strike to Officer Campbell’s jaw. (2) Officer Campbell was justified in using a reasonable amount of force against Mr. Kilburn. Officer Campbell used a closed fist to strike back against Mr. Kilburn. Officer Campbell did not employ any other weapon in his response to being hit. (3) Officer Campbell was reasonable to believe that a) he was in immediate danger of unlawful bodily harm and b) his use of such force was necessary to avoid this danger. Mr. Kilburn had already been assaultive and Officer Campbell’s force was necessary to avoid this danger from continuing.

In essence, once Officer Campbell was punched by Mr. Kilburn, under the law, he had the right to use a reasonable amount of force against Mr. Kilburn. In that moment, it was reasonable to believe that he was in immediate danger of unlawful bodily harm, because he had already been struck by Mr. Kilburn. Additionally, the use of such force, the closed fist punches, was necessary to avoid and mitigate the danger that Mr. Kilburn presented.

However, it should be noted that while Officer Campbell's initial interaction with Mr. Kilburn showed exemplary tactics and compassion, his second interaction did not. Officer Campbell's use of foul language and antagonistic behavior did not de-escalate the situation which, ultimately, put him in a position where it was necessary to physically defend himself. It is the Office's hope that the Burlington Police Department will commit to de-escalation training for their officers to ensure that their department is equipped with the tools they need to effectively and safely respond to members of our community in crisis.

The Office of the State's Attorney for Chittenden County also conducted an independent review.

A copy of the use-of-force expert's report can be found [here](#).

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