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PRESS RELEASE

Date: September 14, 2018

Dickinson County Prosecutor Lisa Richards ruled today that an Iron Mountain Police Officer's fatal shooting of a 20-year-old man on August 27, 2018 was justifiable.

On August 27, 2018 at approximately 8:00 a.m., an Iron Mountain resident reported his red and black 1992 Chevrolet truck and .357 Smith & Wesson pistol stolen from his garage. The victim advised that the pistol was loaded and there was extra ammunition in the truck.

At approximately 8:48 a.m., central dispatch received a report of a possible intoxicated driver at Boss Snow Plow / Systems Control on East Industrial Drive.

When officers arrived on scene, they observed the red and black Chevrolet truck parked with its driver's side door open. The key was in the ignition and the engine was running. Officers observed a pistol case on the driver's seat. The case was open and empty. Officers observed ammunition for a .357 caliber pistol scattered across the front seat. They also observed one .357 round outside of the truck.

A short time later, it was discovered that a 2005 grey Ford Focus was missing from the same parking lot. According to the vehicle's owner, it had been parked 2 spaces away from where the stolen truck was abandoned.

Authorities were alerted through central dispatch to "be on the lookout" for the stolen Ford Focus.

At approximately 10:35:09 a.m. central dispatch received a "911" call from a resident of Withworth Avenue in East Kingsford in regards to an attempted armed robbery. Officers from the Sheriff's Office responded to meet with the victim who advised that at approximately 10:30 a.m. a grey car (matching the description of the stolen vehicle) pulled into her driveway. The victim reported that a male subject exited the car and entered her garage. She advised that she went into the garage to see what the subject was doing and saw him leaning into her car. When she asked him what he was doing, he turned towards her, pointed a gun at her and stated "I'm going to rob you and f---ing kill you." The victim reported that she screamed and ran back into her house where she dialed "911."

Central dispatch records show that Iron Mountain Police Officer Cory Johnson located the stolen vehicle near Skidmore Drive in East Kingsford at approximately 10:35:54 a.m. The audio footage from Officer's Johnson's body worn camera shows that Officer Johnson pursued the stolen vehicle down Skidmore Drive and onto a private drive. The driver was throwing things out of the vehicle's

window. The pursuit ended when the driver struck a tree and crashed the vehicle. Audio footage from Officer Johnson's body worn camera reflects that he immediately came under fire as he attempted to exit the patrol car. As the squad car's door chimes ring, at least 2 apparent gun shots can be heard in the distance followed by Officer Johnson reporting "shots fired" to dispatch. An exchange of gunfire follows. Officer Johnson can then be heard yelling "get down on the ground - drop your gun - drop your gun - drop your gun." Officer Johnson then tells dispatch that he's been hit, and he needs backup.

The suspect, identified as Riley Starnes, was transported to Dickinson County Healthcare System via ambulance where he later died from his injuries.

Officer Johnson was also taken to Dickinson County Healthcare System where he was treated for his injuries, which included multiple puncture wounds on his left temple and left cheek. Officer Johnson had foreign bodies (consistent with glass fragments) embedded in his left scalp. These were surgically removed and his wound(s) were irrigated. Officer Johnson also suffered moderate left sided hearing loss and abrasions about his hand(s), finger, and knee.

The autopsy report reflects that the cause of Mr. Starnes death was exsanguination due to ballistic trauma. Mr. Starnes suffered three (3) gunshot wounds, one to the chest, one to the flank and one to the hip. A presumptive drug screen on Mr. Starnes was positive for amphetamine, benzodiazepine, buprenorphine and THC.

The state police forensic science division, including personnel from both the Marquette and Grayling laboratories, processed the scene. Authorities located the stolen handgun near the rear bumper of the Ford Focus. It is believed that Mr. Starnes fired 6 rounds as all 6 of the gun's cylinders contained spent casings. There was a bullet hole in Officer Johnson's driver's side window with an impact on the rear door window trim.

Prosecutor Richards said there were several reasons why she determined Officer Johnson's actions were justifiable in this case. First, Prosecutor Richards refers to Michigan's Self Defense Act, MCL 780.972, which states that an individual may use deadly force against another when they honestly and reasonably believe the use of deadly force is necessary to prevent imminent death or imminent great bodily harm to himself or to another individual.

Additionally, Michigan law allows the use of deadly force when making an arrest when the arresting person is met with force or when deadly force is required to prevent the person being arrested from fleeing.

The evidence supports the conclusion that Officer Johnson was in danger of being killed or seriously injured when he immediately came under fire by Mr. Starnes. Although he ultimately received backup from other law enforcement officers/agencies, Officer Johnson was the only officer at the scene at the time of the shooting. He had an honest and reasonable belief that he was in imminent danger and acted immediately to defend himself. Prosecutor Richards, after a careful review of the available evidence, has determined that this tragic incident resulting in the loss of life is not a criminal matter and no criminal charges will be authorized.

A more complete summary of the facts of the case and relevant legal analysis is attached.



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September 14, 2018

D/Sgt. Jean Belanger
MSP 8th District Headquarters
1924 Industrial Park Dr.
Marquette, MI 49855

Re: Officer Involved Shooting
Incident No. 80-168-18

Dear D/Sgt. Belanger:

My Office has completed its review of the Officer Involved Shooting that resulted in the death of Riley Joseph Starnes on August 27, 2018 at Skidmore Drive near Barton Street in Breitung Township. This shooting is ruled **Justifiable** for the following reasons:

Iron Mountain Police Officer Cory Johnson was on duty the morning of August 27, 2018. He was dressed in his official police uniform. Officer Johnson was driving a fully marked Iron Mountain Police Department Dodge Charger. The vehicle was equipped with a dash mounted camera system. Officer Johnson was wearing a Wolfcom Vision body worn camera. The SIM card from the dash mounted camera system was secured and yielded no video footage from August 27, 2018. Officer Johnson's body worn camera was downloaded and contained "audio" footage of the events that occurred. The body worn camera yielded no video footage from August 27, 2018.

The following reports/evidence was reviewed in forming my conclusion(s):

- MSP incident report #80-168-18
- MSP incident report #85-1652-18
- MSP incident report #85-1655-18
- MSP incident report #85-1656-18
- MSP incident report #85-1672-18
- Medical Examiner's Report Case No. AU18-14
- Kingsford Public Safety Department incident report #18-226-507
- DNR Case Report #18-99800878
- Dickinson County Sheriff's Office Central Dispatch Log for 8-26-18 & 8-27-18
- DCSO incident report #18-303-122
- Iron Mountain Police Department incident report #18-451-492
- IMPD incident report #18-444-492
- Letter from the Police Officer's Association of Michigan
- Audio footage – Officer Johnson's body worn camera
- Various photographs

FACTUAL REVIEW

A review of the above reports/evidence reflects the following sequence of events:

At approximately 8:00 a.m. on August 27, 2018, a resident of Norway Street in Iron Mountain reported his red and black 1992 Chevrolet truck and .357 Smith & Wesson pistol stolen from his garage. **The victim advised that the pistol was loaded and there was extra ammunition in the truck.**

At approximately 8:48 a.m., central dispatch received a report of a possible intoxicated driver that drove over the lawn at Boss Snow Plow and continued on toward Systems Control, both of which are located on East Industrial Drive.

Iron Mountain Police Officers responded to Boss Snow Plow and spoke to a maintenance worker who saw a red and black Chevrolet truck drive through the lawn between the parking lot and the shipping department. He followed the truck a short distance to the Systems Control parking lot. By the time he got there, the driver was gone.

When Iron Mountain Police Officers arrived on scene, they observed the red and black Chevrolet truck parked with its driver's side door open. The key was in the ignition and the engine was running. Officers observed a pistol case on the driver's seat. **The case was open and empty. Officers observed ammunition for a .357 caliber pistol scattered across the front seat. They also observed one .357 round outside of the truck.**

Authorities placed nearby businesses on "lock down."

A short time later, another employee, whose vehicle had been parked 2 spaces to the north of the stolen truck, noticed his grey 2005 Ford Focus missing.

Authorities were alerted through central dispatch to "be on the lookout" for the stolen Ford Focus.

At approximately 10:35:09 a.m. central dispatch received a "911" call from a resident of Withworth Avenue in East Kingsford in regards to an attempted armed robbery. D/Lt. Derek Dixon from the Dickinson County Sheriff's Office responded to meet with the victim. The victim advised that at approximately 10:30 a.m. a grey car (matching the description of the stolen vehicle) pulled into her driveway. She reported that a male subject exited the car and entered her garage. She advised that she went into the garage to see what the subject was doing and saw him leaning into her car. When she asked the subject what he was doing, **he turned towards her, pointed a gun at her and stated "I'm going to rob you and f---ing kill you."** The victim reported that she screamed and ran back into her house where she dialed "911." The victim advised that the male subject looked "disoriented."

Central dispatch records show that Iron Mountain Police Officer Cory Johnson located the stolen vehicle in close proximity to the attempted armed robbery (near Skidmore Drive in East Kingsford) at approximately 10:35:54 a.m. The audio footage from Officer's Johnson's body worn camera shows that Officer Johnson pursued the stolen vehicle down Skidmore Drive and onto a private drive. The driver was throwing things out of the vehicle's window. The pursuit ended when the driver struck a tree and crashed the vehicle near a gate. As the squad car's door chimes ring, at least 2 apparent gun shots can be heard in the distance followed by Officer Johnson immediately reporting

"shots fired" to dispatch. Rapid gun fire follows with what appears to be two different sounding repeated gunshots. Officer Johnson can then be heard yelling "get down on the ground – drop your gun – drop your gun – drop your gun." Officer Johnson then tells dispatch that he's been hit, and he needs backup.

Conservation Officer Brian Bacon was the first backup officer to arrive on scene. Officer Bacon reported that upon his arrival, Officer Johnson was standing in a position of concealment between the open driver's door and the rear driver's side tire of his patrol car. Officer Johnson had his firearm pointed in the direction of the grey passenger car, which had its driver's door open. Officer Bacon assisted Officer Johnson to a position of greater safety behind the patrol car. Officer Bacon then posted himself on the passenger side of Officer Johnson's patrol car where he observed a subject lying on the ground near the open driver's door of the grey passenger car.

Iron Mountain Police/Fire Director Ed Mattson arrived on scene approximately one minute after shots were fired. Several responding backup officers from numerous agencies also arrived on scene. Director Mattson observed that Officer Johnson had a head wound to the left side of his face. Director Mattson decided to transport Officer Johnson to the hospital's emergency department for treatment. While en route to the hospital, Officer Johnson made the following statements to Director Mattson... "I can't believe he shot at me;" "I can't f---ing believe he shot at me when I tried to get out of the car;" "I shot back at him through the windshield, got out of the car and shot the rest of my magazine;" "I reloaded and took cover."

D/Lt. Derek Dixon, who was approximately 1500 – 2000 feet away taking a statement from the attempted armed robbery victim, reported hearing two different gun shots. D/Lt. Dixon described the first shots fired as two slower shots, followed by rapidly fired .45 caliber rounds. He then heard a mix of exchange of gunfire, which included two distinctly different caliber weapons.

The suspect, identified as Riley Starnes, was transported to Dickinson County Healthcare System via ambulance where he later died from his injuries.

Officer Cory Johnson was also taken to Dickinson County Healthcare System where he was treated for his injuries, which included multiple puncture wounds on his left temple and left cheek. Officer Johnson had foreign bodies (consistent with glass fragments) embedded in his left scalp. These were surgically removed and his wound(s) were irrigated. Officer Johnson also suffered moderate left sided hearing loss and abrasions about his hand(s), finger, and knee.

Investigation into the Officer Involved Shooting was conducted by the MSP Investigative Response Team, consisting of D/F/Lt. Robert Pernaski, D/Sgt. Jean Belanger, D/Sgt. Kevin Ryan, and D/Sgt. Tom Rajala. Assisting divisions/units include the Marquette Crime Laboratory (assisted by personnel from the Grayling laboratory), Traffic Crash Reconstruction Unit; Computer Crimes Unit and Aviation Unit.

Acting on the advice of Assistant General Counsel from the Police Officers Association of Michigan, Officer Johnson declined to provide an official statement concerning the events of August 27, 2018.

In addition to the aforementioned complaints regarding two stolen vehicles, further investigation revealed that Mr. Starnes was a suspect in multiple other break-ins or attempted break-ins of homes and vehicles in Dickinson County on August 27, 2018.

SCENE INVESTIGATION

Crime laboratory personnel from both the Marquette and Grayling laboratories processed the scene. A Smith & Wesson .357 caliber stainless steel 6 shot revolver was discovered near the rear bumper of the Ford Focus. There were 6 spent casings in the revolver's 6 cylinders. The windshield of the patrol car had multiple bullet holes in the lower driver side. There was a bullet hole in the driver's side window, with an impact on the rear door window trim. Metal detectors were utilized to search the road and wooded area around the scene. One possible bullet fragment was located in a tree to the east of the Ford Focus. Spent cartridge casings were located in and around the patrol car.

CAUSE OF DEATH

An autopsy was completed on Mr. Starnes on August 28, 2018 at Dickinson County Healthcare System. It was performed by Martin Cristanelli, MD, ME. Dr. Cristanelli concluded that the cause of death was exsanguination due to ballistic trauma. There was significant (fatal) blood loss that occurred from the left lung, spleen, liver, vena cava and pelvis.

Riley Starnes suffered three (3) gunshot wounds. These included wounds of the:

- 1) Left chest through the left lung, diaphragm and liver
- 2) Right flank through the abdominal wall (exiting the navel)
- 3) Left hip

Two 45 caliber bullets were recovered during the autopsy. The bullets were preserved as evidence.

A presumptive drug screen on Mr. Starnes was positive for amphetamine, benzodiazepine, buprenorphine and THC.

LEGAL REVIEW

Self Defense/Defense of Others

In Michigan the use of deadly force in compliance with the Self Defense Act, MCL 780.972, is not deemed criminal conduct and prosecution for use of deadly force is improper.

The Self Defense Act states that:

An individual who has not or is not engaged in the commission of a crime at the time he or she uses deadly force may use deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if the following applies:

The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death or infliction of imminent great bodily harm to himself or herself or to another individual.

Officer Johnson was not engaged in committing a crime at the time he used deadly force. He had a legal right to be where he was and he had no duty to retreat. The evidence from Officer Johnson's body worn camera, as well as the evidence collected at the scene, reflects that Mr. Starnes fired

multiple rounds at Officer Johnson beginning when he attempted to exit his patrol car. Officer Johnson had every reason to fear for his life and safety and the above factual recitation indicates that his belief was reasonable.

Additionally, Officer Johnson was aware that the driver of the stolen vehicle (later identified as Mr. Starnes) was in possession of a stolen handgun and had attempted to rob a woman at gunpoint just seconds before his encounter with him.

Arrest of Fleeing Felon

Officers are, as are citizens, permitted to use deadly force in making an arrest. Michigan follows the common law in regards to a fleeing felon. *People v. Crosby*, 436 Mich 414 (1990). The use of deadly force in making an arrest can be divided into two categories: 1) the use of deadly force when the arresting person is met with force from the party to be arrested, and 2) the use of deadly force when necessary to prevent the person being arrested from fleeing. *People v. Fielder*, 194 Mich App 682 (1992). A police officer may use deadly force to make an arrest if he reasonably believes that the felony occurred and the fleeing suspect was the one who committed the offense. *People v. Hampton*, 194 Mich App 593 (1992).

In this case, Officer Johnson was aware that the driver of the Ford Focus was a suspect in two stolen vehicle complaints. Officer Johnson was also aware that the subject was in possession of a stolen handgun and had just attempted to rob a woman at gunpoint. According to central dispatch logs, Officer Johnson pursued the subject with lights and siren for approximately 3-4 minutes with the subject refusing to stop. This constitutes Fleeing & Eluding a Police Officer – 4th Degree, which is a felony pursuant to MCL 750.479a2.

After Mr. Starnes crashed into the tree(s), he exited the stolen vehicle and proceeded to fire multiple shots at Officer Johnson. At least one of the rounds pierced the driver's side window and impacted the rear door window trim causing the officer to suffer head/facial injuries. This constitutes Assault with Intent to Murder, pursuant to MCL 750.83.

CONCLUSION

Based on the foregoing information it is reasonable that Officer Johnson was in fear for his own life when he made the decision to fire upon Riley Starnes who at the time, had committed multiple felonies including Assault with Intent to Murder. Therefore, it is my opinion that Officer Johnson's use of deadly force was justified in this instance.

Sincerely,



Lisa Richards

Dickinson County Prosecuting Attorney