



**ROBERT B. BERLIN**  
**STATE'S ATTORNEY**  
DUPAGE COUNTY, ILLINOIS

## **MEMORANDUM**

To: Sheriff John E. Zaruba, DuPage County Sheriff's Office

From: Robert B. Berlin, DuPage County State's Attorney

Date: April 20, 2017

Re: Sheriff's Office officer involved shooting - January 1, 2017, resulting in the death of:  
Trevon D. Johnson  
17W747 Standish Lane  
Villa Park, IL  
M/B, DOB: 02/22/1999

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On January 2, 2017, at approximately 12:45 a.m. DuPage County Sheriff John Zaruba formally requested the Illinois State Police, Zone 1 Investigations, conduct an independent investigation into an officer involved shooting which occurred at 17W747 Standish Lane, Villa Park, IL, on January 1, 2017, at approximately 11:30 p.m. The following is a brief summary of that independent investigation and the conclusion of the DuPage County State's Attorney's Office.

### **FACTS AND CIRCUMSTANCES SURROUNDING THE SHOOTING**

On January 1, 2017 at 11:26 p.m., Ricquia Jones called 9-1-1 from her home at 17W747 Standish Lane in unincorporated Villa Park. Ricquia was hysterical and complained about an in-progress domestic violence incident involving her brother, Trevon Johnson. On the 9-1-1 call, Ricquia yelled, "Please, please, please bring the police now. Oh my god...destruction of property, domestic violence, everything, he's pestering me." The dispatcher asked Ricquia, "Who's there? Who's there fighting?" Ricquia responded, "He's ripping apart the house, listen to him, he needs to go, he needs to go to jail now, and I'm pressing charges, and I want a restraining order, that's my brother, he's destroyed the whole entire house, he's taking knives, he's got glass, and he's pulling all the braids out of my hair, my braids is all over the floor." Ricquia continued, "I'm pregnant, he put his hands on me, he punched me in my head, he broke the glass table, he took a T.V., he threw the Christmas tree, it's over, he needs to go now." When the dispatcher asked Ricquia what his name was, she responded "Trevon Johnson." Ricquia even spelled Trevon's first name and stated, "There ain't no time for questions, y'all need to send someone now." The dispatcher asked Ricquia if he had any weapons, to which Ricquia responded, "Yeah he has a whole bunch of weapons. Knives, bowls, plates, picking up stuff in the house." Ricquia continued by stating, "He's fuckin' 6'6", 200 pounds; I'm 4'11", 117 pounds." Ricquia gave a description of Trevon Johnson by stating he was wearing a blue jogging suit with blue and orange shoes. When the dispatcher asked where exactly in the home Trevon was now, Ricquia answered, "Upstairs." Ricquia refused to give her name until the police were there. She stated

she got a big cut on her foot and was bleeding, and again stated, "he pulled out my hair, my braids are on the floor."

At 11:27 p.m. Deputy Scott Kuschell, a 13-year veteran with the DuPage County Sheriff's Office, was on the road when he responded to the 9-1-1 call. At 11:30 p.m., 9-1-1 received a second call regarding the incident at 17W747 Standish Lane. Robert Pelts, Trevon Johnson's brother, called 9-1-1 and complained, "My brother's going crazy. He's throwing stuff, he's breaking stuff, glass and everything." The dispatcher asked who was throwing stuff, and Robert Pelts answered, "My little brother, Trevon Johnson. He's breaking stuff and everything." The dispatcher asked if anyone was hurt and Pelts responded, "I think so. He threw glass at her, I think she is." The dispatcher then asked Pelts, "Is there any weapons in the home?" Pelts responded, "No, he was picking up knives and glass and bottles and everything." The dispatcher then asked, "Okay, does he have any knives or anything with him right now?" Pelts responded, "I think so." The dispatcher asked, "He has a knife on him now?" Pelts responded, "Ah, yeah. He threatened people." Pelts continued, "He's in my Grandma's room, upstairs to the right, first door to the right of the stairs." The dispatcher asked, "Are you in a room next to him?" Pelts answered, "I'm nowhere near him, he's going crazy." The dispatcher asked, "What type of knife?" Pelts answered by stating, "A house knife, a kitchen knife." The dispatcher asked, "A large kitchen knife? Carving knife?" Pelts answered, "Yeah. He broke the glass, he's throwing glass on people."

A third 9-1-1 call was a hang-up. When the 9-1-1 dispatcher called back, Trinia Johnson answered. The dispatcher asked Trinia if Trevon still had the knife. Trinia responded, "No." The dispatcher asked, "Where is it?" Trinia stated, "It was a butter knife." The dispatcher asked, "Where is it now?" Trinia stated, "In the kitchen." The dispatcher asked, "So he doesn't have it anymore?" Trinia stated, "No." The dispatcher stated, "Okay, because we're being told he's armed with a large kitchen knife." Trinia responded, "No, no, no, we don't even have one."

Deputy Kuschell heard the dispatcher say, "17W747 Standish. Sounds like it's a domestic." While on his way to 17W747 Standish Lane, Deputy Kuschell heard the following from the dispatcher: "There's a male attacking a female who's pregnant. The male punched the female several times. The male's name is Trevon Johnson." Kuschell heard the description of blue jogging suit, blue/orange shoes, about 6'6" and the male "does have knives on him." Kuschell then heard the dispatcher say, "Units responding to Standish: the male subject is armed with a knife and he's going toward people in the residence with a knife." Kuschell also heard the following from the dispatcher, "Your subject is armed with a large kitchen knife and he's in the upstairs bedroom. When you go upstairs he's on your first door to the right."

Kuschell, a tactical operator in the Special Operations Unit for the Sheriff's Office, was wearing full police uniform and driving a marked blue Sheriff's Office squad car. Kuschell, the first officer on the scene, parked his squad car two houses down from the residence at 17W747 Standish Lane and began to approach the house on foot. When he was approximately 25 to 30 feet away from the residence he heard yelling and a loud crash which he believed to be broken glass coming from inside. Kuschell drew his service weapon, a .40 caliber Glock 22, as he neared the residence. When he was approximately 20 feet away he could see the front door shut and steamed over. When Kuschell was approximately 15 feet from the front door the door swung open fast. Willie Bradley was standing in the doorway holding the door open while motioning for Kuschell to come inside. Kuschell had his service weapon in low ready as he approached the door. As Kuschell walked inside he noticed the lighting was dim and he observed several large pieces of glass shattered on the floor, which he believed was from a broken table. He noticed the first floor of the residence was in disarray.

Kuschell asked Bradley if he or anyone in the house was injured, and Bradley said, "I live here, he's upstairs." Kuschell asked if Bradley meant Trevon, and did Trevon have a knife. Bradley said, "Yes, upstairs." From the doorway Kuschell saw Ricquia Jones and heard her hysterically yelling up the stairs, "Get out, get the fuck out." Kuschell also heard at least one female and one male voice yelling from the second floor words to the effect of "Get out now, get the hell out." Kuschell asked Ricquia if she was okay and Ricquia responded that she wanted him arrested now: "arrest him, I want him arrested." Jones was in the living room, pacing back and forth while pointing upstairs. Kuschell asked Ricquia where Trevon was and if he had a knife. Jones said, "Get him, he's up there." Kuschell repeated his question to Jones and her answer again was, yes.

Deputy Kuschell then noticed a male (Robert Pelts) on the landing at the top of the stairs. He immediately ordered the man to stop and show his hands so he could see them. Pelts complied and put his hands up. Kuschell asked Pelts if he was Trevon and Pelts said, "No, he's upstairs." Ricquia confirmed that Pelts was not Trevon. Kuschell ordered Pelts to come down, and Pelts complied. At the bottom of the stairs Kuschell reached out and began searching Pelts for weapons with his right hand. Kuschell asked Pelts if Trevon was upstairs with a knife and Pelts said, "Yes, he's upstairs." While searching Pelts, Kuschell heard a loud bang like a door being slammed open or closed coming from upstairs. He then heard the sounds of heavy footsteps of an individual running down the stairs towards his position at the bottom of the stairs. Kuschell heard a loud guttural animalistic sound coming from the stairwell. He pushed Pelts away from him and saw a very tall black male (Trevon Johnson) wearing a dark puffy jacket running from the landing leaping toward him. Kuschell noticed Johnson had his right hand raised above his head and held a pointy, 3 to 4 inch long, 1/2 to 3/4 inch wide, dull gray metal knife-like object in his hand. Johnson's right arm began slashing downward with the object as he descended the stairs. Kuschell thought the object was a knife, ice pick, wood chisel, or box cutter. Kuschell yelled "put it down," but Johnson kept coming at him. Believing that Johnson was going to land on him and strike him with his forward motion, and believing his life, as well as the lives of the others in the room were in danger of death or great bodily harm, Kuschell took two steps away from the door and stairs to create more distance between him and Johnson. Kuschell raised his gun and saw the knife-like object thrusting toward him. Believing he would be killed or seriously injured by the knife-like object, Kuschell fired. As he fired at Johnson, Trevon threw the knife-like object at Kuschell. The object flew end over end past Kuschell and impacted the front door behind him. Johnson fell backward on the stairs after he was shot. Kuschell immediately advised dispatch, "shots fired," and asked the dispatcher to send medical personnel. Kuschell then went to assess Johnson on the stairs. While he was assessing Johnson for gunshot wounds the other individuals in the house were yelling, "You killed him." Deputy Jasper arrived at the scene and assisted Deputy Kuschell with medical aid to Johnson.

Oakbrook Terrace Fire Protection District personnel arrived and administered aid to Johnson. Johnson was subsequently transported via ambulance to Elmhurst Hospital. Emergency medical personnel were unsuccessful at saving Johnson's life and Dr. Michelle Meziere pronounced Trevon Johnson dead at 12:05 a.m. on January 2, 2017.

On January 3, 2017, an autopsy was performed on the body of Trevon Johnson by Hilary S. McElligott, M.D., Chief Forensic Pathologist from the Office of the Coroner, DuPage County, Illinois. Her examination revealed a total of four gunshot wounds. Two of the gunshot wounds were to the right side of the chest, traveling right to left, front to back and downward. The third gunshot wound was on the lateral aspect of the right thigh. The bullet exited the body on the anterior aspect of the right thigh. The fourth gunshot wound was on the right buttock. This bullet exited the body on the right buttock. There was no evidence of close range firing in any of the four gunshots. Two fired bullets were recovered from Johnson's back. It was her medical opinion that the cause of death was multiple

gunshot wounds. Dr. McElligott stated that the gunshot wounds were consistent with Trevon Johnson being shot while coming down the stairs and falling backward during the shooting. A forensic toxicologist determined that Johnson's blood tested positive for greater than 50 ng/mL of Delta-9 THC, which is the active ingredient of marijuana. Johnson's blood also tested positive for Delta-9 Carboxy THC (the inactive metabolite of THC) and 11-Hydroxy Delta-9 THC (an active intermediate metabolite of THC). These toxicology results indicate Johnson had recently ingested marijuana.

The post-shooting scene at 17W747 Standish Lane was processed by the Illinois State Police Crime Scene Services Command. Crime Scene Investigator Sean Grosvenor fully documented this area and also recovered physical evidence as well. The following pieces of evidence were recovered:

- a) 5 spent Winchester 40 Smith and Wesson shell casings recovered from the living room floor;
- b) A braid of dark colored hair recovered from living room floor; (There were several braids of dark colored hair scattered on the living room floor).
- c) Marble base of a sports trophy recovered from the living room floor;
- d) Silver decorative top of trophy recovered from inside one of the glass panes of the main entrance door; This portion of the trophy was wedged between a glass pane and a clear plastic covering the door.
- e) A butter knife recovered from the living room floor;
- f) Twelve knives, including 8 butter knives, 3 steak knives and 1 butcher knife recovered from the kitchen counter and sink;
- g) A fired projectile on the stairs to the second floor.

Forensic Scientist Tonia Brubaker of the Illinois State Police Crime Lab examined the firearms evidence. She determined that all five shell casings found on the living room floor were fired from Deputy Kuschell's service weapon. The fired bullet found on the stairs and the two fired bullets recovered from Johnson during the autopsy shared the same class characteristics as the test fires from Deputy Kuschell's service weapon.

The trophy base and sports trophy figure taken from the front door were submitted to the Illinois State Police Crime Lab. Forensic Scientist Ralph Meyer determined that the broken trophy piece found in the front door and the base of the trophy found on the floor near the stairs constituted a physical match and at one time formed a single object.

A full review of the DuComm and Sheriff's Office CAD sheets along with the Sheriff's Office and DuComm radio transmissions for the relevant times of January 1, 2017 are consistent with and corroborate the statements of Deputy Kuschell regarding what he heard on his radio and what he knew when he entered the residence at 17W747 Standish Lane. On the tape of the Sheriff's Office radio transmissions, the dispatcher is clearly heard broadcasting: "17W747 Standish. Sounds like it's a domestic." The dispatcher then says, "There's a male attacking a female who's pregnant. The male punched the female several times. The male's name is Trevon Johnson." The dispatcher then clearly broadcasts the description of Trevon Johnson: "Blue jogging suit, blue/orange shoes, about 6'6" and

the male does have knives on him.” The dispatcher is then heard saying, “Units responding to Standish: the male subject is armed with a knife and he’s going toward people in the residence with a knife.” The dispatcher follows by announcing: “Your subject is armed with a large kitchen knife and he’s in the upstairs bedroom. When you go upstairs he’s on your first door to the right.”

A review of the 9-1-1 calls also corroborates the commotion Kuschell heard when he entered the residence. While Kuschell was inside the residence, on the tapes Ricquia Jones is hysterical and yelling. She can be heard yelling, “And beat me up too...the fucking one that beat me up...that’s my fucking baby...pulled my goddam hair...he took the side of my face, face, look, there is one right here...there he go, get the fuck out.”

The family members of Trevon Johnson in the residence during the incident, including Willie Bradley, Ricquia Jones, Elizabeth Jones, Christopher Edmond, Trinia Jones, and Robert Pelts all gave statements to State Police investigators. Their statements corroborated Deputy Kuschell’s statement with the exception of a few inconsistencies. These inconsistencies were contradicted by the 9-1-1 calls and the physical evidence found at the scene, however. On January 2, 2017 State Police investigators requested these witnesses come to the Oakbrook Terrace Police Department for second interviews. The investigators were attempting to clear up potential inconsistencies and follow up with questions based on information the State Police learned from their investigation. The witnesses appeared at the Oakbrook Terrace Police Department with Pastor Alfonzo Singletary. Pastor Singletary told the investigators he had advised the family members not to speak with investigators anymore until they consulted with an attorney. Singletary was concerned the witnesses might contradict what they originally said, and he was concerned the family might say something that would hurt a future wrongful death lawsuit. The family members all refused to speak to the police until they consulted an attorney.

On January 5, 2017, State Police Master Sergeant Kashmir spoke to Larry Rogers, Jr., the attorney for the family of Trevon Johnson. Kashmir asked Rogers, Jr. if investigators could speak to the family members involved in the incident to clear up any potential inconsistencies since the initial interviews. Rogers, Jr. advised he would contact the family members and get back to Master Sergeant Kashmir. Kashmir called Rogers, Jr. again on January 19, 2017 and left a voicemail for Rogers, Jr. requesting a return call so investigators could interview the family members. Kashmir left several voicemail messages for Rogers, Jr. on January 25 and 26. Rogers, Jr. called Kashmir back and left two messages. At approximately 2:01 p.m. on January 26, 2017, Master Sergeant Kashmir left another voicemail for Rogers, Jr. to return his call. Rogers, Jr. did not return the call. Consequently, Master Sergeant Kashmir was never able to re-interview the family members.

### ANALYSIS AND CONCLUSION

The law of the State of Illinois as it applies to the use of force in this matter is set forth as follows:

#### **720 ILCS 5/7-1 Use of force in defense of person**

“(a) A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other’s imminent use of unlawful force. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent

death or great bodily harm to himself or another, or the commission of a forcible felony.”

### **720 ILCS 5/7-5 Peace officer’s use of force in making arrest**

“Peace officer’s use of force in making arrest. (a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.”

On January 1, 2017 at 11:27 p.m., Deputy Scott Kuschell, wearing his full police uniform, responded to a violent aggravated domestic battery in progress. Based on everything Kuschell was told via his radio, he believed Trevon Johnson was in the residence armed with a knife. Willie Bradley, Ricquia Jones, and Robert Pelts all confirmed that Trevon Johnson was upstairs and was still armed with a knife. Kuschell’s observations of broken glass scattered across the floor and the residence being in disarray corroborated the dispatcher’s statements that a violent domestic battery was in progress. After he entered the residence Kuschell saw Ricquia Jones pacing back and forth approximately 10 feet into the living room, crying and hysterically yelling that she wanted him arrested now. Based on what Kuschell was told by the 9-1-1 dispatcher, his observations upon entering the residence, and Ricquia Johnson’s statements, Kuschell clearly had probable cause to arrest Trevon Johnson.

When Trevon Jones refused clear and audible commands to “put it down” as heard on the tape of the 9-1-1 calls and show his hands to Deputy Kuschell, and in one continuous motion ran down the stairs at Deputy Kuschell while holding a deadly weapon, a shiny metal trophy with a marble base in his right hand, with his right arm raised above his head, and began slashing his right arm downward while descending the stairs at Deputy Kuschell, Deputy Kuschell was confronted with an imminent unlawful threat of deadly force by Johnson. Deputy Kuschell reasonably believed Johnson was armed with a knife. The fact that the knife-like object was a trophy with a marble base is of no legal significance. Under Illinois law, a trophy, although not deadly per se, can be a deadly weapon depending on the manner in which it is used. In this case, the trophy was clearly used in a manner in which it became a deadly weapon. Not only did Trevon Johnson threaten Deputy Kuschell by holding the trophy over his shoulder and waving it in a slashing motion, Johnson threw the trophy at Deputy Kuschell with such force that it broke the trophy in two pieces. The location of the marble base portion of the trophy on the living room floor and the silver decorative top portion of the trophy stuck between the plastic and a glass window pane in the front door to the residence corroborate Deputy Kuschell’s statement that Trevon Johnson came down the stairs with his right hand raised above his hand holding

a dull gray knife-like object, and that as Deputy Kuschell fired his gun Johnson fell and an object flew end over end toward Deputy Kuschell and impacted the front door behind him.

Given the violent actions of Johnson, including attacking Ricquia Jones, punching her in the head, pulling the braids out of her hair, breaking a glass table, threatening the people inside the residence with knives, glass and bottles, plus Ricquia Jones' and Robert Pelts' statements that Trevon Johnson was still armed with a knife, as well as Trevon Johnson's refusal to obey police commands, Deputy Kuschell acted lawfully and was justified in using deadly force in order to prevent imminent death or great bodily harm to himself, Ricquia Jones, Robert Pelts, Willie Bradley, and all the other people in the residence. It was reasonable for Deputy Kuschell to believe that Johnson was armed with a knife that was capable of causing death or great bodily harm. Accordingly, when Deputy Kuschell fired his gun at Johnson it was reasonable for him to believe that this action against Johnson's imminent use of unlawful force was necessary to prevent imminent death or great bodily harm to himself and the others in the residence. Deputy Kuschell was also justified in using deadly force to defeat Johnson's resistance to being arrested for the offenses of aggravated battery, domestic battery, and aggravated assault.

Deputy Kuschell should be commended for his courage and for his professionalism during this extremely dangerous situation. His concern for the safety of Ricquia Jones and all the people in the residence including Trevon Johnson is a testament to the excellent training which the DuPage County Sheriff's Office provides to their entire force.

Our sympathies, condolences and thoughts go out to the family of Trevon Johnson as they attempt to make sense of his violent actions that evening.

Please feel free to contact me if you have any questions.

RESPECTFULLY SUBMITTED,

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ROBERT B. BERLIN  
DuPage County State's Attorney