

REPORT OF INVESTIGATION
OFFICER INVOLVED DEATH (OID) of DAVID STANLEY MACK

This report will serve as the summary of the Officer Involved Death (OID) investigation of David Stanley Mack, which occurred at The Queens Laundromat parking lot, 2611 West Moholt Drive, Eau Claire, Wisconsin by the Eau Claire County Sheriff's Office on April 3, 2016. The Wisconsin Department of Justice, Division of Criminal Investigation, Eau Claire Field Office was contacted and requested to respond as the lead investigating agency pursuant to Wisconsin Statute 175.47.

The WI DOJ-DCI Eau Claire Office responded with a Special Agent in Charge (SAC) Robert Powell and seven Special Agents (SAs): Welsch, Ruff, Hynek, Vosters, Frederick, Ince and Kleinhans. A lead investigator and secondary investigator were designated.

The SAC met with supervisory officers of the Eau Claire County Sheriff's Office and Eau Claire County District Attorney Gary King.

A neighborhood canvass was conducted at the following locations: The Queens Laundromat, 2611 West Moholt Drive, Eau Claire, WI; 2517 West Moholt Drive, Eau Claire, WI; Dorret Road, Eau Claire, WI and 2327 North Clairemont Avenue, Eau Claire, WI.

As a result of the investigation, eight witnesses were identified; interviews were conducted by SAs Vosters, Ruff and Ince.

An interview of Deputy Walters was conducted on April 6, 2016.

Additional investigative tasks were identified, including a scaled scene reconstruction by the Wisconsin State Patrol Technical Reconstruction Unit (TRU); scene security and assistance with evidence collection by the Eau Claire Police Department. Investigative reports were filed by the Wisconsin State Patrol.

SA Frederick and Ince were assigned to conduct the scene investigation. The Eau Claire Police Department Crime Scene Unit responded to the scene and assisted with the investigation. Items of evidence were located, collected, packaged and placed into evidence by SA Frederick, which included: bullets, fired cartridge casings, clothing, U.S. currency, a cellular phone, a vehicle and a Kimber Pepper Blaster II weapon. SA Ince took photographs documenting the scene.

SA Kleinhans accompanied the body of David Stanley Mack to the Ramsey County Medical Examiner's Office in St. Paul, Minnesota. SA Kleinhans attended the autopsy of David Stanley Mack on April 3, 2016 at the Ramsey County Medical Examiner's Office, St. Paul, MN. The following persons were also in attendance: Dr. Kelly Mills, Forensic Technician Natalie Hazelwood and Eau Claire County Medical Examiner Christopher Kruse. Fingerprint

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 16-1777/48

identification of David Stanley Mack was provided by Minnesota Department of Public Safety-Bureau of Criminal Apprehension (BCA).

SA Kleinhans observed the body of Mack had multiple wounds to the torso and a wound to the head. No other injuries were noted by SA Kleinhans.

The Wisconsin DOJ/DCI reviewed the arrest warrant entry for David Stanley Mack. The arrest warrant was entered by the United States Marshals Service on March 17, 2016 for a probation violation relating to a robbery of a financial institution. The warrant number is: 164103170628D; the warrant also indicated an alias name for Mack as Ty James Lesione.

The Wisconsin DOJ/DCI Eau Claire Field Office obtained the report generated by the Wisconsin State Patrol and reviewed the report for accuracy and content.

All surveillance video was reviewed by a Wisconsin DOJ/DCI agent and the findings were reduced to a report. Squad video from Deputy Walter's squad was recovered and reviewed. The squad video was consistent with the information provided to agents in reference to the actions of Deputy Walters. Video was recovered from a business in the area of the incident. The video only captured the initial contact by Deputy Walters and the male lying on the ground after the incident ended. Video was recovered from a business, which was too far away from the incident to observe the activity. There was no body camera, additional squad video or additional outside video from businesses available.

As a result of the Wisconsin DOJ/DCI investigation and a review of all investigative reports, the following factual information was learned:

Request for police service

On April 3, 2016 Sheriff Cramer from the Eau Claire County Sheriff's Office contacted SAC Powell and advised one of the Eau Claire County Sheriff's Office deputies was involved in an Officer Involved Death (OID). The Eau Claire County Sheriff's Office requested DCI to be the lead agency investigative agency. SAC Powell assigned SA Welsch as the lead investigator and SA Frederick as the secondary investigator.

Witness interviews

On April 3, 2016 during the course of the investigation, DCI special agents conducted a neighborhood canvass at fifteen residences located in the area of 2611 West Moholt Drive, Eau Claire, WI. A canvass was also conducted at businesses surrounding this area. The following are statements of the witnesses and what they observed or heard at the time of the incident:

WITNESS "WM"

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 16-1777/48

Witness WM said between approximately 6:40 a.m. and 6:45 a.m. WM heard a sound described as “boom, boom, boom, boom” as four consecutive gunshot sounds. WM observed a large law enforcement presence in the area but didn’t hear anything before or after the gunshots.

WITNESS “VS”

Witness VS heard what is described as three consecutive gunshots then a pause and then three more consecutive gunshots. VS could see several members of law enforcement in the area. VS didn’t hear or see anything prior to the gunshot sounds.

WITNESS “SW”

Witness SW heard what is described as four to five gunshots coming from the direction of the laundromat.

WITNESS “AB”

Witness AB said between 5:00 a.m. and 6:00 a.m., AB heard “bang bang” or “pop pop” sounds. AB wasn’t sure of the origin of the sounds.

WITNESS “SHELTER RESIDENT #1”

Witness SHELTER RESIDENT #1 heard what is described as four quick pops. SHELTER RESIDENT #1 was able to see an officer standing near a van. SHELTER RESIDENT #1 observed a man laying on the ground, the officer then approached the man lying on the ground and handcuffed him. SHELTER RESIDENT #1 observed additional officers and medical personnel arrive.

WITNESS “BV”

BV observed an officer standing near a vehicle in the parking lot and a man lying on the ground. A short time later, other law enforcement and medical personnel arrived in the parking lot.

WITNESS “SHELTER RESIDENT #2”

At approximately 6:50 a.m. witness SHELTER RESIDENT #2 heard what is described as three or four “pops”. SHELTER RESIDENT #2 could hear emergency sirens in the distance. SHELTER RESIDENT #2 observed a male subject lying on the ground and observed an officer placing handcuffs on the male. SHELTER RESIDENT #2 observed additional law enforcement and medical personnel arrive on the scene.

WITNESS “SHELTER RESIDENT #3”

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 16-1777/48

Witness SHELTER RESIDENT #3 heard what SHELTER RESIDENT #3 described as a sound similar to gunshots. SHELTER RESIDENT #3 didn't know how many gunshots were heard. SHELTER RESIDENT #3 observed several law enforcement officers in the area of the parking lot near the laundromat.

Officer Statements

DEPUTY STRASBURG

On April 3, 2016 Deputy Strasburg from the Eau Claire County Sheriff's Office was interviewed. Deputy Strasburg was assigned field training duties for Deputy Jacobson from the Eau Claire County Sheriff's Office. Both Deputy Strasburg and Deputy Jacobson were riding in the same squad car. Deputy Strasburg said he heard on the police radio Deputy Walters call in a traffic stop in the area of West Moholt Drive. Deputy Strasburg heard Deputy Walters radioed dispatch to check for warrants on the subject he had stopped. Dispatch advised Deputy Walters the subject had a federal warrant for his arrest. Deputy Walters requested back up units to respond to his location. Deputy Strasburg and Deputy Jacobson began to respond to West Moholt Drive. While enroute to Deputy Walter's location, Deputy Strasburg heard Deputy Walters report to dispatch via radio there were shots fired.

Upon arrival, Deputy Strasburg observed Deputy Walters leaning over a male subject, who was lying on the ground. Upon exiting the squad, Deputy Strasburg and Deputy Jacobson checked Mack's van for additional occupants; they didn't locate anyone in the vehicle. Deputy Strasburg made contact with people who were inside the laundromat and told them to stay inside the building. Deputy Strasburg then assisted with preserving evidence at the scene.

DEPUTY JACOBSON

On April 3, 2016 Deputy Jacobson of the Eau Claire County Sheriff's Office was interviewed. Deputy Jacobson was being field trained by Deputy Strasburg; both deputies were in the same squad car.

Deputy Jacobson heard Deputy Walters call in a traffic stop in the area of West Moholt Drive. Dispatch told Deputy Walters there was an active warrant for the individual Deputy Walters had on the traffic stop. Deputy Walters requested backup units to respond to his location. While enroute to assist Deputy Walters; Deputy Jacobson heard Deputy Walters report to dispatch via radio there were shots fired.

Upon arrival, Deputy Jacobson observed Deputy Walters leaning over a subject who was lying on the ground. Deputy Jacobson and Deputy Strasburg exited their squad and checked Mack's van for additional occupants; they didn't locate anyone in the vehicle. Deputy Jacobson assisted taking photographs and preserving evidence at the scene.

DEPUTY WALTERS

On April 6, 2016 SA Welsch and SA Frederick interviewed Deputy Walters of the Eau Claire County Sheriff's Office. Deputy Walters said on April 3, 2016 he was on duty for the Eau Claire County Sheriff's Department in full department uniform and operating a marked squad car. Deputy Walters observed a vehicle stopped at the stop lights in the area of Truax Lane and Highway 312 in the Township of Union; his squad was facing toward the north. Deputy Walters was in the right turn lane and was preparing to turn eastbound on Highway 312. Deputy Walters observed a vehicle on Truax Lane, located on the north side of the road facing southbound. The vehicle was in the left turn lane and signaling to turn east bound on Highway 312. This vehicle made a left turn onto Highway 312 and started traveling eastbound. Highway 312 is a four-lane highway with two lanes going both eastbound and westbound. Deputy Walters turned behind the vehicle and observed the vehicle make a deviation from the right lane into the left lane of travel during the turn. Deputy Walters had a squad computer and ran a check on the license plate of the vehicle he was following. As Deputy Walters continued to follow the vehicle, the return came back on his computer for the check of the license plate. The return indicated there was a felony warrant for the registered owner of the vehicle.

Deputy Walters continued to follow the vehicle and noticed the warrant was issued by the United States Marshals Service but he couldn't tell the reason for the warrant. Deputy Walters then utilized his squad radio to call the Eau Claire County dispatch. Deputy Walters requested the dispatcher to do a warrants check on the vehicle registration. The Eau Claire County Dispatch confirmed there was a federal parole warrant for the registered owner relating to a bank robbery. The warrant was issued through the United States Marshals Office. Deputy Walters continued to follow the vehicle and requested for backup via radio to Eau Claire County Dispatch.

As he continued to follow the vehicle, it made a right turn onto West Moholt Drive off Clairemont Avenue. The vehicle entered the parking lot and slowly traveled westbound through the parking lot; Deputy Walters remained behind the vehicle. The vehicle pulled into a parking stall in front of The Queen's Laundromat. A male exited the vehicle and started walking toward the main entrance to the laundromat. Deputy Walters said he needed to make immediate contact with the subject before he entered the laundromat. Deputy Walters exited his squad and told the male to stop, which the male complied.

Deputy Walters identified the male as David Stanley Mack. Deputy Walters confirmed the Mack was the owner of the vehicle and that Mack had an active federal felony warrant for his arrest. Deputy Walters asked Mack if he was currently on probation or parole. Mack said he should have been released from parole approximately three years ago; to his knowledge, he shouldn't be on probation or parole any longer. Mack said he was previously on parole for an armed robbery from approximately 20 years ago.

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 16-1777/48

Deputy Walters told Mack there was an active warrant for his arrest and told Mack he was under arrest for the warrant. Deputy Walters instructed Mack to walk toward the front of his squad. Mack started walking toward the front of Deputy Walter's squad; Mack then started walking more toward the driver's side of the squad. Deputy Walters redirected Mack toward the front of the squad car. As Mack approached the front of the squad car, Deputy Walters took out his handcuffs to handcuff Mack. Deputy Walters told Mack to put his hands behind his back; Deputy Walters started to grab Mack's left arm to handcuff him. As Deputy Walters did this, Mack reached with his right hand inside his own jacket toward his chest area. Mack then spun around quickly facing toward Deputy Walters; at the same time Mack used his left hand and put it around the back of Deputy Walter's neck, pulling the head of Deputy Walters toward Mack. Deputy Walters observed an object in Mack's right hand; Deputy Walters described the object as reddish weapon. He initially thought it was either a stun gun or Taser. Mack extended the weapon out with his right hand toward the stomach of Deputy Walters. Mack said, "Fuck you" and Deputy Walters recalled hearing Mack say something similar to, "I am not going with you" or "I can't go with you." Deputy Walters said he was able to duck down and get Mack's arm off from around his neck and pushed Mack away. Deputy Walters immediately tried to back-pedal away from Mack, attempting to gain distance away from him. Mack continued to charge toward Deputy Walters with the weapon still in his hand and continued to point it at Deputy Walters. Deputy Walters said based on Mack not following commands and continuing to charge toward him with a weapon in his hand; Deputy Walters was in fear for his life. Deputy Walters drew his firearm and discharged his firearm at Mack; this action ended the threat.

Review of officer radio traffic

On April 7, 2016 SA Welsch received a compact disc (CD) from the Eau Claire County Communications Center, which contained the squad car radio traffic from this incident. SA Welsch reviewed the CD; SA Welsch found the information was consistent with what was being reported.

Autopsy findings

SA Kleinhans observed the body of Mack had multiple wounds to the torso and a wound to the head. No other injuries were noted by SA Kleinhans.

Wisconsin State Crime Lab (WSCL) forensic examination

Several items of evidence were submitted to the Wisconsin State Crime Laboratory (WSCL) for forensic examination, including a firearm, fired cartridge casings and spent bullets.

Scene examination

On April 3, 2016 SA Frederick and SA Ince were assigned to examine the scene, which was located in the parking lot of The Queens Laundromat, located at 2611 West Moholt Drive, Eau

Wisconsin Division of Criminal Investigation Case Report
Case/Report Number: 16-1777/48

Claire, WI. The Eau Claire Police Department Crime Scene Unit responded to assist with crime scene processing under the direction of DCI. SA Ince took photographs of the scene. The Wisconsin State Patrol Technical Reconstruction Unit (TRU) responded to do a scaled diagram of the scene. TRU personnel took photographs for their scene documentation.

Items of evidence were located, collected, packaged and placed into evidence by SA Frederick, which included: bullets, fired cartridge casings, clothing, U.S. currency, cellular phone, vehicle and a Kimber Pepper Blaster II weapon.

During the examination Mack's shirt, SA Frederick observed holes in the shirt and located copper-colored projectiles and projectile fragments.

Notification and review of factual information with the Mack family

On April 3, 2016 SA Welsch made contact with David Mack's family and made to them the notification of Mack's death. SA Welsch explained the family's rights under the law regarding OID investigations. Mack's first cousin, who is the representative for the family, was provided a DOJ 2013 Wisconsin Act 348 summary and DCI Victim's Rights Notification Form. The cousin signed a form acknowledging the receipt of the documentation.

Since April 3, 2016 SA Welsch has remained in contact with the family representative updating them on the status of the investigation.

DA review

On May 4, 2016 a copy of DCI's completed investigative file, as of May 4, 2016, was turned over to Eau Claire County District Attorney Gary King for his review. DCI will continue to document any additional investigative activities that may occur. Reports of those investigative activities will be provided to the district attorney as soon as they are completed.