



CIRCUIT COURT
DIVISION

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Dean Death Investigation

In a society based upon laws the actions of our police force must, as a matter of necessity, be reviewed by an independent authority. The purposes of any such review, in the first instance, is to determine whether or not any action undertaken by the police in reference to one of our citizens falls within or without the parameters of those limitations established by law and the Constitutions of the United States and the State of Maryland. In the second instance, any such review is for the purposes of fully advising our citizens as to the facts and circumstances underlying such actions; for in a democratic society, openness is vital to maintaining the faith and confidence of our citizens in the form of government they have chosen and fought so hard to maintain and foster. A third, and important reason for review, is to make a determination as to whether or not recommendations for change should be made to those who serve in a direct supervisory capacity over those whose actions are being reviewed.

In Maryland, under state constitutional and statutory law, the Office of State's Attorney, has been established for the purposes of undertaking the review of police actions. These reviews are undertaken, for the primary purpose of determining whether or not any constitutional prohibitions or criminal laws have been violated and whether or not a criminal prosecution is warranted as a result. However, as stated above, as a constitutionally created, and independently elected official, representing all of the citizens of St. Mary's County, it is imperative that this office bring its full weight to bear on making sure that our police are above reproach in their relations with our citizens.

It is important that the readers of this report keep in mind that the local Sheriffs are elected by the people of the respective county in which they serve; and that the Maryland State Police are part of the executive branch of government, with the superintendent being appointed by the governor of this state.

Normally speaking, a review undertaken by the Office of State's Attorney is final; however, the United State's Department of Justice is authorized under federal law to undertake an independent review or investigation to determine if any action undertaken by the police has violated federal law, the U.S. Constitution, or the civil rights of an individual. In addition to review and/or investigation by the U.S. Department of Justice, an aggrieved individual may seek a civil action to recover damages in the state or federal system for a violation of their rights under state or federal law; the grounds for recovery may often include theories that are not applicable to a criminal prosecution. It should be

further kept in mind that the differences between a state or federal prosecution vis-à-vis a state or federal civil action has to do with burdens of proof. In a criminal prosecution, the burden of proof resting on the prosecution is *beyond a reasonable doubt*, while the burden resting on an aggrieved party in a state or federal civil proceeding is a *mere preponderance of the evidence*. In addition, an aggrieved party may report the action of any department of the executive branch of government directly to the governor and/or to our elective legislative delegation.

It is my hope that this report will answer some of the questions that linger in the minds of those who read it; while recognizing that some questions that may well continue in the minds of others may not be possible to satisfactorily answer. I remain

Your obedient servant

Richard D. Fritz
State's Attorney
St. Mary's County

cc:

Honorable Martin O'Malley, Governor
Honorable Steny Hoyer, Congressman
Honorable Roy P. Dyson, State Senator
Honorable John L. Bohanan, Jr., Delegate
Honorable John F. Wood, Jr., Delegate
Honorable Anthony J. O'Donnell, Delegate
Honorable Douglas F. Gansler, Attorney General
Sheriff Tim Cameron
Col. Thomas E. Hutchins, Maryland State Police
Hand delivered to family members

On December 26, 2006, at approximately 12:50 p.m., James Emerick Dean, was shot and killed by a single .308 caliber bullet fired by a Maryland State Police Counter Sniper. The Office of the Chief Medical Examiner, describes the bullet wound as entering the posterolateral chest and exiting the right anterior surface of the chest. The wound path is described as back to front, left to right and downward. At the time this shot was fired, Mr. Dean was standing at the front door of his Father's house, facing right, with the front storm door partially open. The bullet fired shattered through the glass storm door window carrying with it glass fragments that caused pseudo-stippling at the wound entrance.

The facts and circumstances leading to the death of Mr. Dean, commence on the evening of December 25, 2006, at approximately 9:10 p.m., when Mr. Dean contacts his sister and tells her that he "just can't do it any more", and then fires a gun shot. Mr. Dean's sister thought that he committed suicide, however, she was able to get him back on the telephone, and although he would not talk, she concluded that he was still alive.

At 9:39 p.m., Mr. Dean's sister contacted 911 and advised that she thought her brother was suicidal; she advised that his address was at Jones Wharf Road; at 9:51 p.m., 911 was advised that the correct address where Mr. Dean was located was at Dusty Lane.

Shortly after 10:00 p.m., Deputy Sheriff Morley arrived at the Dusty Lane residence, and was contacted by a neighbor directly across from the residence and was told "that man over there has a gun and is shooting". At approximately 10:00 p.m., Morley makes contact with Mr. Dean and advises him that he must come out so he can see that Mr. Dean is alright. Mr. Dean indicated to the officer that he would come out, but did not do so. Within this time frame several other officers are arriving at the location and commence setting up a perimeter. Morley describes the conversations with Dean as leading him to conclude that Dean was agitated and intoxicated. During this period of time Dep. Morley also had other officers evacuate surrounding residents from the area.

During this time frame, Trooper Sughart, made contact with Mr. Dean's wife, who indicated that Mr. Dean was an Army Ranger, that he was supposed to deploy to Iraq, that he had been having numerous mental problems, and that he had been "acting crazy" for the past couple days. In addition, she advised that there were 12 shotguns inside the house, and a possible black powder gun.

At 10:07 p.m., Sgt. Johnson of the St. Mary's County Sheriff's Department contacts Dean by telephone. A rather substantial conversation takes place between Dean and Johnson. Dean states that he is not coming out, and that he would hurt anyone trying to enter. Dean advises Johnson that he wants Deputies to back off, and makes several threats to hurt someone. (P.38, 911 tapes, etc., conversation with Johnson)

At approximately 10:14 p.m., Dean appears on the back porch of the residence with a long gun and advised Deputies to "back off".

The St. Mary's County Emergency Response Team arrives and sets up perimeters

around the house at approximately 10:45 p.m.

At approximately midnight, going into December 26, 2006, the Calvert County Emergency Response Team arrives and takes up perimeter positions with St. Mary's.

Mr. Dean's cellular phone is disabled, and the resident phone is routed to the negotiators telephone number. *(Any call made by Dean would automatically route to the negotiators number.)* This takes place at approximately 1:34 a.m.

A throw phone is introduced into the house by the Emergency Response Team at approximately 4:05 a.m.; and the phone is shot by Dean and thrown back out the window by 4:09 a.m. *(It is believed that Dean may have set this phone on the window sill and then fired a round at it, causing it to fly out of the window from the impact.) (There exists no evidence to suggest that any officer was in the path or direction of this shot.)*

At approximately 4:19 a.m. chemical munitions were introduced into the house. Somewhere between forty and sixty rounds were shot at the house. The power of these rounds caused them to travel through the windows or directly through the exterior of the house.

At approximately 4:33 a.m., Dean exited to the rear of the house, raised a shotgun and fired in the direction of a police car that was located towards the front of the residence. *(It is believed that this police car had to be 50 or more yards away, and there is little evidence to establish whether it was a shot fired directly at the police car, or whether it was in the direction of the police car and the pellets were a direct hit or a "rain down".* The officer states "The windshield of the vehicle sustained numerous chips that were barely visible.) *(*It must be pointed out that at this time Mr. Dean would have been viewed as having committed a first degree felony assault, which is punishable by a term of incarceration of 25 years. In addition, it should be pointed out that the St. Mary's County police officers standing on the perimeter, and the St. Mary's and Calvert County Emergency Response Teams showed considerable restraint by not returning fire at this precise time.)* This officer further reports that just prior to his being relieved at 7:00 a.m.; another shot was fired from the front of the house. *(There is little evidence to indicate where this shot was fired, other than from the front of the house,; however, after the death of Mr. Dean, it was discovered that a State Police vehicle had suffered some physical damage that appeared to have been caused by pellet strikes. At the time this shot was heard, there was no evidence that it was fired in the direction of any police officer.)*

At 4:47 a.m. Dean is sitting on the back porch of the residence.

At 4:53 a.m., Dean is standing inside residence, with door open.

At 4:59 a.m., Dean is on deck, with door still open.

At 8:00 a.m., on December 26, 2006, the Charles County ERT relieved St. Mary's and Calvert County ERT.

At 11:10 a.m., the Maryland State police arrive and begin deploying personnel and resources.

At 11:15 a.m., an accidental discharge is fired by a Charles County Counter Sniper. *(This officer reports that he was in the process of being relieved by a Maryland State Police Counter Sniper and he was placing his gun in its case when some brush entered the trigger area and discharged the gun.)*

At 11:17 a.m. [11:29 a.m.] Dean fires a round from the [back] of the house. Several officers reported that they thought this shot was in response to the noise made by the accidental discharge. *(Reading the reports from other officers, the shot fired by Dean seems to have come much sooner in time than the 11:29 time frame as reported – radio log reports at 11:16 an accidental discharge and at 11:17 that shot was fired from house front window; however, of significance is the point that no officer reports that the shot was fired at them. Charles County (Voorhaar) reports that the shot came from the 1-2 side of the house and that it was high enough not to be a threat, although it scared them.)*

At 11:18 a.m., negotiator makes telephonic contact with Dean and carries on a conversation for approximately 2 minutes.

At 11:21 a.m., negotiator makes telephonic contact with Dean and carries on a conversation for approximately 1 minute.

At 11:27 a.m. Calvert County attempts to deploy a throw phone in the front far right window; the line is cut in the process, and they have to obtain another throw phone.

At 11:31 a.m., negotiator makes telephonic contact with Dean and carries on a conversation for approximately 6 minutes. Dean advises State Police negotiator to get police cars out of area or he will shoot. Negotiator informs Dean that they are going to deploy another throw phone, and Dean responds that if they do he will shoot.

At 11:36 a.m. Calvert County attempts to deliver a new throw phone. Once this phone is thrown in through the window and the officers retreated toward the peace keeper, that is standing on the right side of the house, where no windows are located, Dean fired a shot out of front far right window towards the ground. One officer (Thomas) clearly states that he saw where the shot was fired because of the dirt that it kicked up as it hit the ground. *(It is of interest to note that although the negotiator told Dean what was going to happen, the shot fired by Dean was after the insertion of the phone, not at the officers during the process of insertion; in fact, the shot was fired after they had retreated, and was into the ground, not at the officers.)*

At 11:44 negotiator makes telephonic conversation with Dean and carries on a conversation for an unstated period.

At 12:10 p.m., State Police indicate that they will try to talk him out using Officer Trossbach, who was a boyhood friend of Dean; that they would try this for 5 minutes then go to the "gas plan". (*State Police attempted talk Dean out until approximately 12:45 p.m., when they in fact went to the "gas plan".*)

At 12:25 p.m., negotiator makes telephonic contact with Dean. Dean states: "I'm going home." At 12:25 p.m., Dean indicates that he may be coming out. Batteries in police cell phone die.

At 12:34 p.m., negotiator makes telephonic contact with Dean. Volume of conversation is low; negotiator can not understand exactly what Dean is saying. (*It is not stated how long this conversation lasts.*)

At 12:45 p.m., power is cut to the house. Telephone to residence is dead, negotiator continues to attempt contact but can not because phone is dead. State Police Peace Keeper is deploying chemical munitions in front, Calvert County armored vehicle is deploying chemical munitions to the rear of the residence.

At 12:47 p.m., the Maryland State Police Peace Keeper is located between 8 to 15 feet from the front of the house, sitting broadside, with the front of the vehicle facing the 1-4 side of the residence. Driver's door, is nearly in front of the front door, when Mr. Dean opened the door, holding the storm door partly open. At this point, according to several reports, he raised a long gun and pointed it directly at the Peace Keeper.

At this point, Maryland State Police Sgt. Weaver, a counter sniper, fired one round from approximately 70 yards away, striking Mr. Dean in the left side.

At 12:52, p.m., Mr. Dean was determined to have no life signs.

The above facts have been presented in a fairly detailed, yet concise manner. Other facts bearing on this matter that were in possession of law enforcement at the time of the event are as follows:

The location of this incident is on a secluded family-farm surrounded by woods and fields. Several houses that are located in close proximity were evacuated early on, and the roadway leading to the Dean residence was a dead end dirt lane serving only the few houses located thereon. The probability of unanticipated threat to innocent passers-by was slight to non-existent.

The location of the residence provided little possibility of Mr. Dean leaving the home in any unnoticed manner. His truck was disabled early on with "stop sticks", and the

visibility around the home provided a clear 360 degrees of observation. *(On the right side of the residence, some distance from the house there existed woods; however, on the right side of the house there existed no doors or windows, and this area was being observed by a sniper, under safe cover.)*

Early on the police were informed that Mr. Dean had been consuming alcoholic beverages, that he had had an argument with his wife, that he was distressed over having received orders to report to the military to be reactivated for duty in Iraq, and that he had threatened suicide. Police were informed that he was a Sergeant in the Army and was a member of the Army Rangers; that he had served in Afghanistan; had been diagnosed for post traumatic stress disorder, and had not been taking his medication for some period of time.

At the initial arrival of the police they were informed that he had a gun and had fired it.

The police had full knowledge that the weapon he had fired at the police car at 4:33 a.m. on the morning of the 26th was a shotgun. *(When Mr. Dean was approached, after his death, he was found to have been firing a 20 gage pump action shotgun.)* The police were informed early on that the house contained at least 12 shotguns and what was believed to be a black powder gun. *(The police were certainly justified, as a matter of caution, in operating on the theory that they could have been confronted with any high caliber weapon sold on the open market to hunters; in fact, when the house was searched, after the death of Mr. Dean, a 30-30 caliber bolt action rifle, with ammunition was located in the residence.)*

In order to understand who was in charge at the time of the death of Mr. Dean, it is important to understand the nature of Emergency Response Team operations.

Generally speaking, and as was the case here, an area will be divided into two perimeters; the outer perimeter would be considered a safe area *(that is to say, reasonably safe under the circumstances.)* This will be a staging area, where the command post is located, and where necessary personnel and equipment are located and maintained.

The inner perimeter is the "hot zone"; this area is completely and absolutely controlled by the Emergency Response Team officer in charge of the operation. It is his responsibility to determine how best to achieve the overall goal set by the command staff that remains in the outer perimeter. It is also his responsibility to determine how best to respond to contingencies that arise outside any established plan set by the command staff.

As was stated, St. Mary's Emergency Response Team was in control of the inner perimeter from approximately 10:45 p.m., on December 25, until approximately 8:00 a.m., on December 26, when Charles County Emergency Response Team provided relief to both St. Mary's and Calvert Emergency Response Team. At approximately 11:10 a.m., The Maryland State Police Emergency Response Team took control of perimeter one. At this time, Sgt. Keith Runk, of the Maryland State Police was in charge of the

Maryland State Police Emergency Response Team, *(Runk was located in the Calvert County Armored Vehicle, designated as Peace Keeper 1, with the Calvert County team leader)*. Cpl. Wesley Forchion, of the Maryland State Police was acting as team leader for Peace Keeper 2, which was deployed in front of the residence *(the driver of Peace Keeper 1, was a Charles County Deputy)*. The Maryland State Police Counter Snipers relieved the Charles County snipers. In essence, command and control of perimeter one was in the hands of the Maryland State Police, with only one St. Mary's County Deputy acting in conjunction with the Calvert County team in Peace Keeper 1, which was under control of Sgt. Keith Runk. At this time, the Charles County armored vehicle was positioned to the front left of the residence, acting primarily as reserve, or back up.

The overall plan of operation.

The overall plan of operation was to move the Calvert County Peacekeeper *(Peacekeeper 1)* to the rear of the residence. The Maryland State Police Peacekeeper *(Peacekeeper 2)* would be located to the front of the residence.

Peacekeeper 2, while in front of the residence would try to induce Dean into coming out of the house by using Trooper Trossbach, who was Dean's boyhood friend. Trooper Trossbach would use the PA system to try to talk Dean out.

At the time this was going on, Peace Keeper 1 would plant an explosive charge on the right side of the house *(the side with no windows or doors)*.

If the actions of Trossbach, in attempting to talk Dean out did not work, chemical munitions would be redeployed by both peacekeepers, from the front, and the back of the residence.

If the chemical munitions did not work, the explosive charge would be detonated in order to blow a hole in the side of the house so as to remove the security provided by this windowless wall, and to serve as a possible point of entry, when authorized.

If need be, Calvert County EST was assigned entry. *(According to reports no entry had been authorized at this time, unless under emergency conditions- it is stated that entry would be considered after nightfall; however, setting off the charge had been authorized.)*

The Peacekeepers (Armored Vehicles)

phones would meet with utter failure. The fact is, that such attempted deployment met with failure, and was taken as a provocative act. In response, Mr. Dean shot into the ground after the phone was inserted, and then threw it back out of the window. It can be stated that this effort was a waste of time, and needlessly placed officers in danger; especially if one considers the fact that existing within the house at this time was a perfectly good and working land line that he was using to talk to the negotiator at the time of the attempted insertion.

If one views the actions of the Maryland State Police, in the context of the negotiations that were taking place at the time of the commencement of the deployment of the chemical munitions, one would have to conclude that the cutting off of the electric, which killed the open lines of telephonic communications that were then taking place between Mr. Dean and the negotiator, as a tactical error. If indeed, a negotiator is one of the main individuals assigned to any EST, then to cut the means of communications directly away from him is to render his job meaningless, and to substantially diminish or end his effectiveness in bringing any psychological pressure or inducement upon an individual to peacefully surrender to authorities.

The deployment of chemical munitions involves a less than lethal force that may well bring an end to a standoff without death or injury; however, in this instance, the employment of chemical munitions by Peace Keeper 2 (Maryland State Police vehicle) was a grave tactical error. Above, the ballistic capabilities of each Peace Keeper 2 are set forth. It is apparent that the Maryland State Police Peace Keeper was never meant to become a siege vehicle capable of withstanding fire from high powered weapons. By the State Police manual establishing the usage of the vehicle, its main purpose was in rescue operations wherein it would be exposed for only 30 seconds, and then to be positioned on an angle, so as to increase its ballistic effectiveness, which is recognized as being inferior. This Peace Keeper was used to approach the Dean residence, to within 8 to 15 feet, positioned broadside to the front door of the house, when it was known that Mr. Dean had indicated that he would open fire if a Peace Keeper approached the residence. Further, it should be noted that any ballistic testing that this Peace Keeper went through was at 75 feet, not at point blank (8-15 feet) range. It should also be noted that the ballistic failures of this Peace Keeper, under testing conditions, were for calibers (.223; .308; 30-06) sold widely on the open market for deer hunting. *(It was known to the police that Mr. Dean had been to the "deer hunting cabin", located on the property, prior to going to the residence.)*

In essence, considering the lack of ballistic capabilities of this vehicle, and the knowledge that Mr. Dean intended to open fire on any approaching vehicle, the positioning of this vehicle broadside to the residence, 8 to 15 feet from the front door, was a most unfortunate choice of tactics on the part of the Maryland State Police. Further, not only did such action endanger each and every member of the EST unit that was located within the vehicle, but it needlessly created a situation that if Mr. Dean exposed himself as he did, the Counter Sniper, Sgt. Weaver, would have no option but to utilize lethal force, as he did.

and that it was susceptible to newer faster rounds that are currently being produced. Also stated that there is no such thing as bullet proof armor, only bullet resistant.

Lieutenant Mark E. Gibbons (Maryland State Police)

Commander, Emergency Operations Section, Located at Command Post. Helped develop tactical plan.

After Action Report: At 12:45 p.m. power was cut to residence, and gas was deployed. At 12:48 p.m., shot was heard, and Weaver reports that shot was away. **"It was only when the suspect, James E. Dean, fired at personnel with a weapon believed to have the capability of penetrating the light armor, resulting in serious injury or death to those inside, did a single round fire to stop the suspect."**

"It should also be noted when Dean's rounds exited the house, considerable concern was given that an errant round might strike not only a law enforcement officer, but an innocent citizen some distance away."

Lieutenant Scott A. Wayne (Maryland State Police)

Commander, Emergency Operations Section, Located at Command Post.

Helped develop tactical plan; assisting Lt. Gibbons, who was on scene commander.

After Action Report: Set up plan to reintroduce gas and **engage Dean outside the residence with 37mm rubber rockets when he exited for air**. The option to make entry and assault would not be considered until dark. Approval was given to cut power and gas was deployed at 1245 hours. At 1247 Dean exits house and points long gun towards MSP Peace Keeper. Weaver fires one round striking Dean.

Sergeant Daniel Weaver (Maryland State Police)

Counter Sniper, fired shot that killed Dean.

States to Sgt. Steven Hall that he was not sure if subject was wielding a rifle which has the potential to penetrate the skin of the armored vehicle.

VULNERABILITY OF MSP PEACE KEEPER

At least five individuals of the Maryland State Police have expressed concern, under the circumstances of this case that the Maryland State Police Peace Keeper may have been vulnerable to rounds being fired by Mr. Dean;

To wit:

- A. Lt. Mark Gibbons, the on scene commander;
- B. Lt. Scott Wayne, team commander (assisting Gibbons);
- C. Sgt. Keith Runk, MSP team leader;
- D. Cpl. Wes Forchion, team leader of Peace Keeper.
- E. Sgt. Danny Weaver, MSP counter sniper.

In addition, Lt. Christopher Becker, of the Charles County Sheriff's Department, who

was driving the Peace Keeper, indirectly indicates, through his actions, that he was concerned that should a shot be fired at the Peace Keeper from 8 to 10 feet away, it might penetrate. His exact words were "... it appeared to me that he had leveled the long gun directly at what would be my, the door area, and I had actually taken some evasive moves to lower myself to the, towards the center of the vehicle, in anticipation of a shot being fired."

Through out many of the reports and statements taken from police officers of all departments, an underlying thread that exists is that the sounds of the weapon being used by Mr. Dean was everything from a shotgun, to a handgun, to sounding like a large caliber weapon.

The information coming from the family of Mr. Dean was that in the house there existed somewhere around 12 shot guns and a black powder gun.

In fact, after the death of Mr. Dean, a search of the house revealed a 20 gage shotgun (weapon that was pointed out the door) several other shotguns ranging in gage from 20 to 12, and a 30-30 caliber bolt action rifle.

There can be no question as to the police not knowing exactly what they were dealing with as far as the gage or caliber of the weapons being deployed by Mr. Dean. It is of interest to note, that many calibers sold on the market today, and employed by deer hunters, would have the ability to penetrate the ballistic armament of the Peace Keeper.

The Maryland State Police provided to this office the official Ballistic Test Results for the Peace Keeper. It is of interest to note the following statement by the testing company; to wit: **"If a suspect is armed with a high caliber rifle, SEB recommends positioning the Peace Keeper vehicle on an angle to the suspect's position in order to enhance ballistic protection through deflection or head on to the suspect's position thereby adding the engine block as an additional barrier. The ballistic glass on the Peace Keeper was not tested."**

As a further cautionary note, the testing company provided the following; to wit: **"Alert note: 'PMC' 5.56 FMJ ball ammunition was purchased at a popular sporting goods (chain) store. It is available and widely purchased by the general public. This round penetrated the Cadloy armor when the armor was at a 90 degree angle and on a 15 degree angle. This bullet penetrated the ¼ armor and a Level III ballistic panel placed directly behind the armor plate."**

Further testing produced the following results at 25 yards:

1. 30.06, full penetration.
2. .300, full penetration.
3. 7.62 (.308), Military ball, 4th and 5th bullet penetrated.

4. 7.62 (.308), Military A.P., all bullets penetrated
5. 5.233 Federal Tactical, almost full penetration.
6. 5.56, Full penetration.
7. 7.62x39 FMJ steel core, not tested.
8. .308 Winchester, full penetration.
9. 30.06 Military Black Tip, full penetration.

It is of interest to note that no testing was performed at almost point blank range – from 8 to 15 feet, for any caliber round.

The Peace Keeper Operations instructional manual provided by the MSP, indicate that the Peace Keeper has ballistic armament sufficient to stop up to 7.62 ball ammunition (typical AK-47 type ammunition), and that the glass will not sustain more than three hits on the glass.

It is apparent that although this vehicle has many practical law enforcement uses, the primary design and use of this Peace Keeper was in rescue operations of downed individuals with supporting cover fire. An operational protocol of a 30 second time-frame from entry to departure was developed for the purposes of rescuing such a downed individual against a known and armed target. It is doubtful as to whether this Peace Keeper was ever intended to be used as a siege vehicle against a barricaded and armed individual firing an unknown weapon of an unknown caliber.

VULNERABILITY OF CHARLES COUNTY SHERIFF'S DEPARTMENT'S PEACE KEEPER (Bulldog IV)

During the period of time that gas was being deployed by Peace keepers I and II, and at the time Mr. Dean was killed, the Charles County armored vehicle was in a stand-by mode, positioned on the left front of the residence.

This vehicle is armored to the level of A-9 armament. A-9 armament is capable of withstanding hits from high powered rifles such as the following:

1. 9x19 mm handguns
2. .357 Magnum handguns
3. .44 Magnum handguns
4. 9x19 mm Sub-machinegun
5. 7.62x25 mm Handgun (Tokorev)
6. 7.62x25 AK-47 HP Rifle
7. .30-06 HP Rifle
8. 5.56x45 mm HP Rifle (M-16) (.223 caliber)
9. 7.62x51 mm HP Rifle/M193 (.308 caliber)

As can be observed by comparing the Charles County armored vehicle to the Maryland State Police (Peace Keeper 2) armored vehicle, the Charles County vehicle is vastly superior to the state vehicle when it comes to ballistic armament. The Charles County vehicle is capable of withstanding hits from nearly every caliber of high powered weapon sold on the open market today.

Calvert County Armored Vehicle (Peace Keeper 1)

As was noted above, at the time of the death of Mr. Dean, the Calvert County armored vehicle was designated as Peace Keeper 1. It had been used to deploy the second and third throw phones, and was actually deploying chemical munitions at the rear of the residence when the fatal round was fired at Mr. Dean.

The ballistic capabilities of the Calvert County vehicle are capable of defeating threats from the following:

1. 7.64 x 51mm AP Armor Piercing rounds (.308 Cal.)
 2. 5.56 x 45mm (.223 Cal.)
 3. 7.62 M-80 NATO.
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Office of State's Attorney Review

As was stated above, the Dean residence is located in an isolated area, with few surrounding homes. Early on these surrounding homes were evacuated by the police. The roadway leading to the Dean residence, is essentially a country lane, with no through traffic; the residence is located some distance from any public highway.

The above facts would lead one to conclude that the location of the residence did not pose a threat to a civilian population, and that the time of day did not increase any such threat. In essence, the police had both time and location in their favor – there was absolutely no need to *push* an extraction of Mr. Dean. This was not a hostage situation, where an innocent civilian was being threatened by Mr. Dean; to the contrary, it was a barricade by a single individual, who was demanding to be left alone.

At this time it is important to keep in mind that this matter started off as a “*check the welfare*” police call. Mr. Dean had committed no crime; however, because of his families concern that he may be suicidal, a check was requested by his family. The police were informed that he had fired a shot, not only by a family member, but also by a neighbor when police arrived at the residence.

When the police arrived, the area was cordoned off and the only nearby homes were evacuated; this was accomplished early on. A perimeter was established by the initial responding road patrol officers, and a holding pattern was placed in effect. Attempts were made by telephone to get Mr. Dean to come out, but these initial attempts failed. Time after time, Mr. Dean informed officers that they should not attempt to approach his

house, and for them to back off, or they would be hurt. Between 10:45 p.m. and midnight, both St. Mary's and Calvert Sheriffs' Departments had deployed their respective Emergency Response Teams around the residence, and the holding pattern continued.

At 4:05 a.m., the first throw phone was thrown into the house, and at 4:09 a.m., the throw phone was shot by Mr. Dean. At approximately 4:19 a.m. the commencement of chemical munitions were introduced into the house (between 40 – 60 rounds); at approximately 4:33 a.m., Dean exited the rear of the house and fired a shotgun in the direction of a police car that was at believed to be 50 or more yards or more away.

It is significant that the St. Mary's and Calvert Emergency Response Teams did not return fire. In fact, at approximately 4:47 a.m., Dean is clearly observed sitting on the back porch drinking something, and on several subsequent occasions he was observed standing at or just outside the back door. The fact that he was not fired upon at any of these times is indicative that his acts of shooting in the direction of the police car, some 50 plus yards away, or at the throw phone, were not of such quality as to warrant the taking of a life by a police officer, when observed on the back porch.

Considering the number of times that Mr. Dean appeared in the open, it is obvious that the tactics employed by the EST of St. Mary's and Calvert was to employ less than lethal force from a distance in which no harm was likely to occur to either Mr. Dean or any police officers.

At 8:00 a.m., Charles EST relieved St. Mary's and most of Calvert EST; a holding pattern is continued, with non aggressive action.

At 11:10 a.m., the Maryland State Police EST relieves most of Charles County EST, and assumes responsibility for the inner perimeter.

The tactics adopted by the Maryland State Police EST can best be considered as progressively assaultive and militaristic in nature; first, was to attempt to talk him out; then was to commence a dual bombardment from the front and rear with chemical munitions deployed by Peace Keeper 1 and 2; then to blow a hole in the right side of the house; then, to make an assaultive entry at some undesignated time, after nightfall.

These tactics were at best flawed. First, there was absolutely no need to take on such an aggressive stance. There were no hostages, there was no emergency situation, and there was little probability of any civilian being threatened by Mr. Dean's conduct. The attempted deployment of a second throw phone, whose line was severed with the backing up of the peace keeper, and then the deployment of a third throw phone, makes little if any sense. It was obvious that from the shooting of the first throw phone and tossing it back out the window, and from what Mr. Dean told the negotiator just prior to the attempted insertion of the second throw phone; that is, that if the peace keeper approached, he would fire, that the insertion of any additional throw

phones would meet with utter failure. The fact is, that such attempted deployment met with failure, and was taken as a provocative act. In response, Mr. Dean shot into the ground after the phone was inserted, and then threw it back out of the window. It can be stated that this effort was a waste of time, and needlessly placed officers in danger; especially if one considers the fact that existing within the house at this time was a perfectly good and working land line that he was using to talk to the negotiator at the time of the attempted insertion.

If one views the actions of the Maryland State Police, in the context of the negotiations that were taking place at the time of the commencement of the deployment of the chemical munitions, one would have to conclude that the cutting off of the electric, which killed the open lines of telephonic communications that were then taking place between Mr. Dean and the negotiator, as a tactical error. If indeed, a negotiator is one of the main individuals assigned to any EST, then to cut the means of communications directly away from him is to render his job meaningless, and to substantially diminish or end his effectiveness in bringing any psychological pressure or inducement upon an individual to peacefully surrender to authorities.

The deployment of chemical munitions involves a less than lethal force that may well bring an end to a standoff without death or injury; however, in this instance, the employment of chemical munitions by Peace Keeper 2 (Maryland State Police vehicle) was a grave tactical error. Above, the ballistic capabilities of each Peace Keeper 2 are set forth. It is apparent that the Maryland State Police Peace Keeper was never meant to become a siege vehicle capable of withstanding fire from high powered weapons. By the State Police manual establishing the usage of the vehicle, its main purpose was in rescue operations wherein it would be exposed for only 30 seconds, and then to be positioned on an angle, so as to increase its ballistic effectiveness, which is recognized as being inferior. This Peace Keeper was used to approach the Dean residence, to within 8 to 15 feet, positioned broadside to the front door of the house, when it was known that Mr. Dean had indicated that he would open fire if a Peace Keeper approached the residence. Further, it should be noted that any ballistic testing that this Peace Keeper went through was at 75 feet, not at point blank (8-15 feet) range. It should also be noted that the ballistic failures of this Peace Keeper, under testing conditions, were for calibers (.223; .308; 30-06) sold widely on the open market for deer hunting. *(It was known to the police that Mr. Dean had been to the "deer hunting cabin", located on the property, prior to going to the residence.)*

In essence, considering the lack of ballistic capabilities of this vehicle, and the knowledge that Mr. Dean intended to open fire on any approaching vehicle, the positioning of this vehicle broadside to the residence, 8 to 15 feet from the front door, was a most unfortunate choice of tactics on the part of the Maryland State Police. Further, not only did such action endanger each and every member of the EST unit that was located within the vehicle, but it needlessly created a situation that if Mr. Dean exposed himself as he did, the Counter Sniper, Sgt. Weaver, would have no option but to utilize lethal force, as he did.

The Final Conclusions of the Office of State's Attorney are as follows:

1. The tactics used by the Maryland State Police were overwhelmingly aggressive, and not warranted under the circumstances of the facts present in this case.
2. The use of Peace Keeper 2 (Maryland State Police vehicle) in the manner in which it was, endangered every officer that was located within the vehicle, and created a needless circumstance wherein lethal force would be necessitated, if Mr. Dean acted in an aggressive manner, as he did.
3. The act of Sgt. Weaver, in utilizing deadly force in these circumstances, caused and created by the unfortunate tactical choices of the State Police to use the peace keeper, in the manner in which it was, was justified in order to protect the lives of the members inside the vehicle.
4. That the failure to utilize the far superior Charles County armored vehicle, that was held in reserve, in the place of the poorly armored State Police vehicle, raises a serious question as to the logic of such a choice, and the reasoning behind it.
5. That the act of cutting off the electric to the residence, and thusly causing the telephone to go dead, while the negotiator was in communication with Mr. Dean, again raises serious questions as to the timing and need for such action.

In conclusion, it is unfortunate that reviewing the facts of this case read like a Greek tragedy unfolding before one's eyes. Knowing that it is the obligation of the police to protect and preserve life, the end to this case is indeed sad. Mr. Dean, a war veteran, a Sergeant, an Army Ranger, was killed while in an emotional state of depression that was no doubt heightened as a result of his not taking his medication, and by consuming alcoholic beverages.

As certainly as his death is in part a consequence of his own actions, it is also in large part due to the unfortunate choice of tactics employed by the commanders of the State Police EST unit. It is difficult to understand the necessity of an aggressive paramilitary operation, vis-à-vis a containment operation, directed at an individual down at the end of a dark road, holed up in his father's house, with no hostages. It is difficult to understand any reason for a "rush to end an event", when in entering into such a rush would serve not only to endanger your own men, but to create a situation where a human life may have to be taken. This office must accept the fact that the Maryland State Police did not fully understand the capabilities of the weapon held by

Mr. Dean at the time of his death; despite the fact that it turned out to be a small gage shotgun (20 gage), it in fact might have been a 30-06, a .223, a .308, or a different caliber capable of "penetrating the skin" of the Peace Keeper. Such a possibility even more so leads one to the amazement that the Peace Keeper would have been placed so close to the house, when all of the commanding officers and Sgt. Weaver (*not serving in a command leadership role*), indicate a foreknowledge of the ballistic weakness of such vehicle. Should Mr. Dean have been in the position to fire a round capable of penetrating the skin of the Peace Keeper, and should have such a round been fired, killing an officer on the interior of said vehicle, it would be difficult to imagine what words the Commander of the Maryland State Police, or the Governor, would have offered to the wife, children, mother and father of the young Trooper who would have been killed due to the poor choice of tactics by the commanders of the EST unit. As it stands now, Mr. Dean is dead, and the only words offered by the Commander of the State Police is his "*spin*" presented to the press that Mr. Dean could have ended this matter differently. It is the considered opinion of this office that if the Maryland State Police, did not engage in such aggressive tactics, this matter may have ended differently.

It is the sincere recommendation of this office that the Governor of the State of Maryland, with the support, and at the insistence of our local legislative delegation, set up a committee to review the tactics used in any Emergency Response Team shooting by the Maryland State Police.

This office is not unaware of the mounting criticism throughout our nation over the use of paramilitary units employing overly aggressive tactics against our civilian population. As State's Attorney, I can think of no greater threat to the good relations existing in our community as it relates to police/citizen relations than to witness the unbridled use of overly aggressive tactics by a faceless and shadowy paramilitary police unit that arrives from some distant part of our state and then kills a decorated veteran from our community. The fact that such a killing may well be justifiable under the law, does not take away from the communities sense of loss, nor do the facts of such a case add to the well being of the community.