

The Virgin Islands Consortium

AG Clears V.I. Superior Court Marshal Who Fired Weapon To Quell Fracas Outside Windward Passage

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Attorney General Claude Earl Walker has determined that a V.I. Superior Court marshal who discharged his service revolver to quell a fracas did not commit any wrongdoing, the V.I. Department of Justice announced Monday.

According to Corliss Smithen, D.O.J.'s public media officer, Dale Brathwaite, 57, who was off-duty at the time, responded to a report from Central Dispatch on July 9 of a police officer needing assistance to break up a fight among several people outside the Windward Passage hotel. On his arrival at the scene, Mr. Brathwaite saw two hostile crowds advancing toward the police officer, which prompted Mr. Brathwaite to fire a single shot because he feared for the officer's and his safety, according to police reports.

The single shot caused the crowds to disperse, Ms. Smithen wrote.

Mr. Walker said in his review of the circumstances, Mr. Brathwaite acted appropriately.

"The investigation revealed that the marshal was off-duty at the area of Wendy's in Havensight and heard over his radio a call for help. When he responded, he saw a woman being severely beaten, someone driving a vehicle erratically – hitting several other vehicles – and an angry mob," the attorney general said on the matter. "The officer issued a series of warnings that were completely ignored, so he glanced out at the harbor to find an area to discharge one warning shot over the sea and then the crowd behaved. My review of the evidence revealed that the officer fired his weapon only for the purpose of compelling obedience from an unruly mob, some of whom were involved in a violent fight and that the discharge was not intended to cause any physical injury."

Following the incident and after viewing a video that depicted that certain actions by Mr. Brathwaite were concerning, the Virgin Islands Police Department launched an investigation. The V.I.P.D. then submitted the matter to the Department of Justice for review and the D.O.J. found that the officer did not violate the law.

"The buck stops with me," Mr. Walker said, "and I have...concluded that no charges will be filed against Marshal Brathwaite because no criminal act occurred. This is totally different from those who terrorize communities by firing shots at night. He discharged his weapon to rescue others, including the lady who was being beaten, to rescue a V.I.P.D. officer at the scene who was surrounded by an angry mob and to rescue himself. He had only a few seconds to decide on an objectively reasonable course of action to end a very dangerous situation that was spinning out of control."

The territory's peace officers during training are not allowed to use their weapons to fire warning shots -- the practice goes against the V.I.P.D.'s policy. But the attorney general commended Mr. Brathwaite for what he said was Mr. Brathwaite's bravery and quick action in the face of potential danger, adding that the incident outside the Windward Passage Hotel warranted the action.

"I can share with you that after reviewing the facts, I am ready to pin a badge on Marshal Brathwaite for bravery. Imagine if we had 10 or 20 more like him. How can we clone this peace officer?" Mr. Walker asked rhetorically. "Here is someone who is off-duty at a burger joint and drops what he is doing to suppress a violent altercation. He should not have to deal with all of this grief."

"I am not defending the use of warning shots, but in an odd way, they could serve to reduce deaths caused by police-related shootings, in that officers have a broad range of choices instead of the current rigid rules. For example, the VIPD consent decree states that if an officer draws his gun, then he must use it, or else he is in violation, and so, you are eliminating the possibility that deadly force will be used if officers have more choices..." Mr. Walker said. "I agree that warning shots fired by law enforcement should have a defined target and shots must not be fired straight up in the air. If warning shots are allowed, then they must be reserved for very restricted circumstances as an alternative to using deadly force, but of course, certain conditions must be met."

Mr. Brathwaite has worked with the V.I. Superior Court for 34 years.

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