

A deep dive into the 2012 shooting death of 15-year old Malcolm Gracia in New Bedford

UPDATE: We added a link to the EMT report that details the wounds and treatment of Officer Barnes and added a 2012 article detailing Nick Baptiste, Gracia's former teacher talking about Malcolm's potential yet troubled past.

On May 17, 2012, 15-year old Malcolm Gracia was shot and killed by New Bedford police officers. Here's a deeper look into the New Bedford Police Department's only police-involved shooting in the past 10 years from the perspective of the Bristol County District Attorney's report and the Malcolm Gracia family lawyer.

At the time of the shooting

I started New Bedford Guide in August of 2010. Besides myself, we did not have any reporters in May of 2012, so I shared The Standard-Time's articles on this case on our Facebook page. It seemed clear cut at the time – a troubled teen stabbed a police officer and was shot to death. The popular opinion at the time, albeit with limited information, was “Don't want to get shot by police? Don't stab them.” These thoughts were obviously an oversimplification of the Malcolm Gracia shooting.

Here are the facts according to the Bristol County DA's 15-page investigation (which I have read three times):

Malcolm Gracia's background and events leading up to the shooting

- Malcolm Gracia was born on December 9, 1996.
- A week before his death, Malcolm ran away from home and was

living on his own. He also ran away from home at least twice in 2010. His mother suffered from a mental condition that prevented her from parenting him. He sometimes lived with the 16-year old that was with Malcolm the night he was killed. No one filed a missing child police report from the time he ran away (May 7, 2012) to the night he was shot and killed (May 17, 2012).

- **Joseph Ramos, Malcolm Gracia's father, was shot and killed by Dartmouth police on August 11, 2009**, when he attacked two officers with a homemade weapon. Malcolm Gracia did not have contact with Joseph Ramos before his death. Joseph Ramos suffered from a long history of mental illness. According to Malcolm Gracia's 16-year old companion, Malcolm blamed the police for his father's death.

- Other people who knew Malcolm stated he had a problem with mental health and his companion stated he was suicidal.

- In February 2011, Malcolm allegedly threatened to kill a police officer at his school stating that he would put three bullets into him.

- On April 12, 2012, a month before his death, Malcolm was admitted to a mental health facility. Anti-depressant and anti-psychotic pill bottles were recovered from Malcolm's room after his death. These medications were nearly the maximum dosage given to adults. Malcolm stopped taking these medications nine days before he was shot. Gracia's family stated that Malcolm was unstable when he wasn't on his medication, yet never reported him as a runaway for the nine days he ran away from home without them. Malcolm's companion stated that Malcolm was schizophrenic and heard voices.

- In a **May 2012 WCVB article**, Nick Baptiste, Gracia's former teacher at an alternative school, said the teen was smart but had a troubled past.

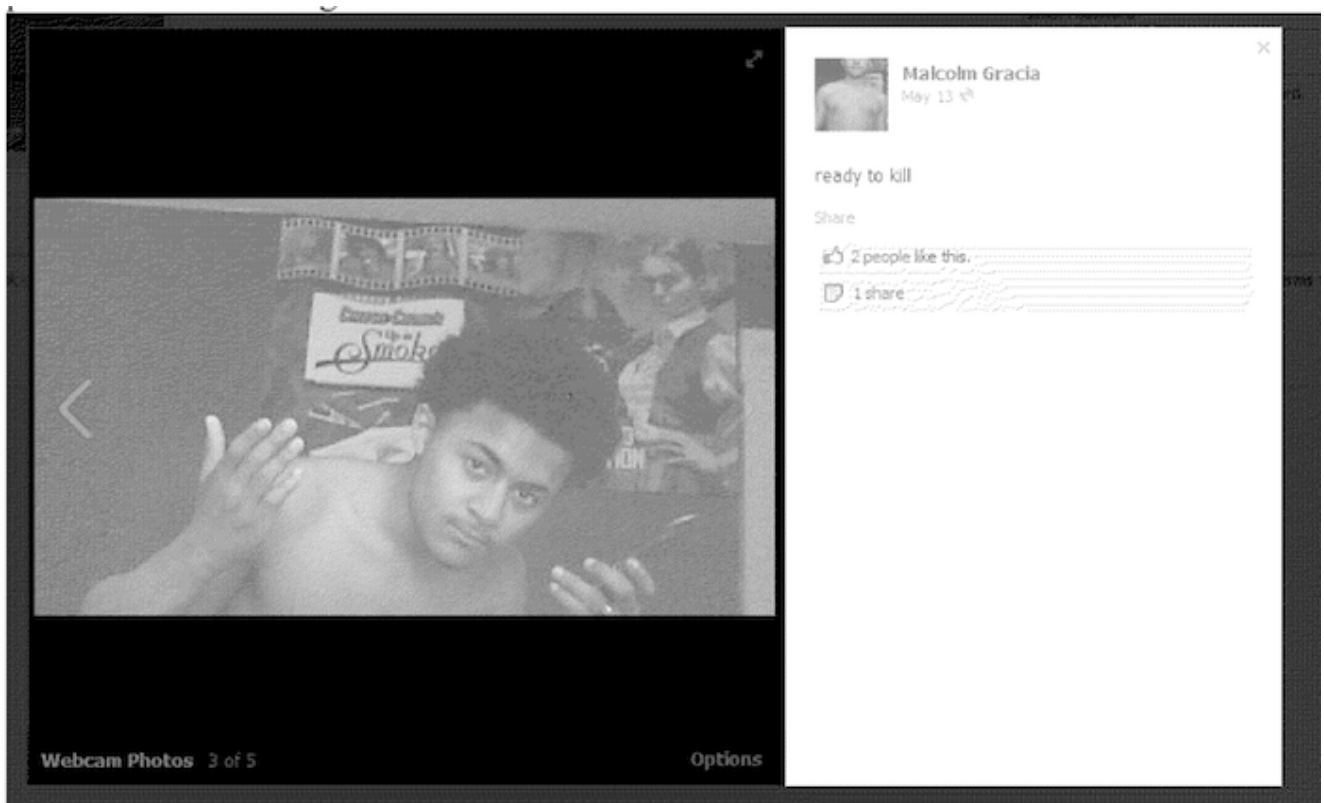
"I sat him down with a counselor and we talked about issues

just like this so it really shouldn't come as a surprise to anybody," Baptiste said.

Article can be read **here**.

- Malcolm's companion also stated that Malcolm not only talked about suicide but cut his wrists two weeks before he was shot and killed on May 17, 2012. The medical examiner reported numerous well-healed scars and recent cuts on Malcolm's left wrist. The medical examiner reported that the recent cuts were around the time of Malcolm's death.

- Malcolm's companion admittedly gave Malcolm the knife used on the night of May 17. On May 14, four days before his death, **Malcolm posted a photo holding the knife used to stab the New Bedford police officer with the caption: "Ready to kill."** Two people liked the post, but no one reported it to the police.



Investigations and witnesses

- The Massachusetts State Police, the Bristol County District Attorney (Sam Sutter at the time), and the New Bedford Police

Department each conducted independent investigations into the shooting death of Malcolm Gracia.

- There were seven total witnesses to the event that night; five New Bedford Gang Unit police officers (four officers on the scene and the gang unit supervisor) and two civilians (Malcolm Gracia's teenage friend and a man that lived in a Cedar Street apartment at the scene of the shooting). According to the DA, newspaper articles reported statements by other people who either lied and were not on the scene or refused to provide statements to the police.

The events of May 17, 2012 – the Night Malcolm Gracia is shot and killed by police

- Five members of the New Bedford Police Department Gang unit were located at the police headquarters on Rockdale Ave. The Gang Unit supervisor, Brain Safioleas, was monitoring video surveillance of the basketball courts at Temple Landing. He recognized everyone except two young men. None of the other police officers recognized the two young men who would later be determined to be Malcolm Gracia and his 16-year old companion. The police report seeing the two young men exchange a possible gang handshake (Gracia family lawyer disputes this). The police make the decision to locate and identify the two young men.

- Four detectives report leaving the police headquarters in two unmarked police cars while wearing "Police" on their shirts or badges on their chest area or both. When police arrived at the basketball courts at Temple Landing, the crowd of teenagers dispersed. Malcolm Gracia and his companion walked north on Cedar Street.

A detective from one of the patrol cars got out of the vehicle in front of Gracia and his companion. The police officer claims he said, "Hey guys, what's going on tonight? I just want to talk to you." The Cedar Street witness, the only other

civilian witness other than Malcolm's companion, said he did not hear these words. The first words he heard were instructions to Malcolm and his companion to stop and put their hands up. Malcolm's companion also states the officer did not attempt conversation and instead were told to put their hands behind their back (DA says this goes against police procedure as a weapon could be behind their back). The police officer claims that in previous encounters like this individuals carrying illegal weapons or contraband usually run and discard their weapons or other items. In this case, he stated both individuals had their hands in their pockets.

The officer states he perceived a threat because their walking gait changed and Malcolm's companion wouldn't make eye contact. The officer claims he asked both to take their hands out of their pockets multiple times, but both refused. The officer determined he would pat-and-frisk both, closed the distance, and put his a hand on each of their shoulders while waiting for Detective Barnes, the other officer in the patrol car. The third and fourth officers were parked further to the south and were walking north.

- The detective states he told Gracia and his companion to put their hands on a nearby car, but they did not comply. The detective then states he tried to guide them both to a parked car near the sidewalk when Gracia ran south/east where he then faced the two detectives walking north. All four detectives and the Cedar Street witness claim Gracia was grasping at his waist/pocket with both hands and perceived he was retrieving a weapon.

- Officer Barnes came face-to-face with Gracia and states he put his hands on Gracia's shoulders to control him. Gracia puts his left hand on Barne's back and with his right-hand thrusts the knife into Barnes's abdomen. All of the detectives and the Cedar Street witness now realize Gracia has a knife. Gracia thrusts the knife for a second time. According to the Cedar Street witness, Gracia attempted to stab Barnes multiple

times. Barnes backed up and fell to the ground. The Cedar Street witness states Gracia intended to injure Barnes.

- Gracia then moved south and then again faced the two detectives heading north. The detectives instructed Gracia to stop, drop the knife, and get on the ground. Gracia advanced. The Cedar Street witness heard the detectives repeatedly yelling at Gracia to stop. The detective, now to Gracia's right, attempts to taser Gracia. The taser has no effect as likely one probe missed Gracia and was recovered from the scene later (The Gracia family lawyer claims the taser was used after the first three shots, not before). According to the Cedar Street eye witness, Gracia continued to ignore both detectives' commands and was advancing towards one of them.

The Detective who attempted to taser Gracia was now behind him. Both officers have their guns drawn and pointed at Gracia. They again yelled for Gracia to stop, but Gracia ignored the commands. Both Detectives fired a total of three shots at Gracia and verified by shot spotter and the Cedar Street witness. Gracia stops and stumbles to the ground and is a few feet from one of the detectives. Both officers instruct Gracia to drop the knife and stay on the ground. The Cedar Street witness states he heard the detectives telling Gracia to "Stay down, stay down."

- The Cedar Street witness states Gracia fell when he was shot and then got up on one knee with the other foot planted on the ground. According to all eyewitnesses Gracia was still holding the knife. The second set of three shots is then fired by the officers all three recorded by shotspotter.

- Six shots were fired and three projectiles were recovered.

- Malcolm Gracia was pronounced dead at 9:21 pm.

- Malcolm's knife and sheath were recovered from the scene.



- Malcolm's companion fled north, but was located at his home the next day and agreed to come to the police station with his mother. He told police he also had a knife that was discarded

next to a church on the way home. Police recovered the knife.

- Detective Barnes was transported to Rhode Island hospital where he was treated for stab wounds to his chest, abdomen, and his arm. The Gracia family lawyer disputes that Detective Barnes was ever stabbed, and if he was, it was very minor. He has photos of Detective Barnes at the hospital wearing a white muscle shirt with no blood on it though there is at least one wound visible.

The EMT report from that night states officer Barnes was stabbed in the chest and the arm, and that the chest wound was serious. EMT report can be read [here](#).

Malcolm Gracia Autopsy

- Dr. Peter Cummings performed an autopsy on Malcolm Gracia on May 18, 2012, the next day.
- The toxicology screening of blood determined the presence of illicit drugs (marijuana)
- Malcolm had multiple self-inflicted scars on his body to include his left wrist/forearm, right wrist, and left thigh.
- Malcolm had been shot four times. None of the gunshot wounds were from close contact (no damage to the skin from gunpowder or gases associated with escaping projectiles from a gun).
- One gunshot wound barely penetrated his lower right back. The medical examiner was unable to determine the direction of travel of the projectile.
- One gunshot wound was an entrance into the right side of the head just below the right ear and exited the left side of the head. This was independently fatal.
- One gunshot wound entered the right side of the upper back and was recovered.

- The fourth gunshot wound entered the left side of his lower back.

DA's conclusion

- The attempt by a single detective to engage Malcolm Gracia and his companion was consistent with NBPD's approach to provide a community-based effort in areas of New Bedford that have experienced violent crimes. **A judge later ruled that the stop was unlawful.**
- The Detective's training to recognize armed individuals was correct as both Gracia and his companion were armed with knives.
- The Detective's perception of danger was real and the precautionary steps he took were designed to prevent the violence that ensued.
- Gracia's violent assault on Detective Barnes and his threatening advance on others was the sole cause of the escalation of the incident and was independent of any action by the police.
- The shooting, though tragic, was justified under the circumstances

The Malcom Gracia case in 2020

Recent Black Lives Matter protests in New Bedford have centered around the shooting death by police of Malcolm Gracia. While George Floyd is the national focus when it comes to protesting the police, Malcolm Gracia is New Bedford's primary issue for protestors. It's a complex case for many reasons.

First, the civil case is over. After several years in the civil court system, in February of 2020, **the family of Malcolm Gracia accepted a one-time payment of \$500,000** with the agreed-upon term that no admission of wrongdoing by the City

or any police officer. A common question asked is, if your case against the City of New Bedford and police was solid, why settle out of court and why agree to a no-fault clause?

Second, Sam Sutter, the Bristol County District Attorney at the time, found no reason to charge the police officers involved in the shooting death of Malcolm Gracia. By all witness accounts, to include an independent witness on the scene, Malcolm Gracia did thrust a large hunting knife towards a New Bedford police officer multiple times with the intent to injure. Malcolm Gracia's family lawyer even admitted to me that the taser was used before the final shots were fired at Malcolm Gracia. There is a dispute by Gracia's family lawyer on how severe the knife wound was on officer Barnes, but a police officer did get wounded based on the photos I saw and the EMT report. Based on the information I detailed earlier, DA Sutter found the shooting to be justified and no police officers were charged with a crime. Bristol District Attorney Thomas Quinn III **said he has reviewed the case and found that the shooting was justified.** He said he has no plans to reopen the case.

Still, the Malcolm Gracia case leaves a lot of unanswered questions; were the final three shots needed while Malcolm was on one knee? Why wasn't the blood on Malcolm Gracia's knife ever tested by the police or the family lawyer? In 2019, **a judge ruled that stopping Malcolm Gracia that night was unlawful,** have the police changed their tactics since? Are there more video recordings from that day and why were the recordings wiped clean by the Massachusetts State Police as Gracia's family lawyer claims?

You'll find Gracia's family lawyer, Don Brissom, disputing many of the DA's findings **here**. Our 1-hour long interview with Brissom can be see here as Paul Santos goes paragraph by paragraph over the DA's report mentioned about:

I've reached out to the current Bristol County District Attorney Tom Quinn for an interview, but his office has yet to commit to one.

If you would like the full 14-page copy of the DA's report email mike@newbedfordguide.com.