

# Former deputy's trial in killing set to begin

## Hearing Monday in Lonoke County case

**TERESA MOSS**

**ARKANSAS DEMOCRAT-GAZETTE**



**Davis**



**Brittain**

# Fatal shooting timeline

*A timeline of events following the June 23 officer-involved shooting that left 17-year-old Hunter Brittain dead:*

<b>JUNE 23</b>	<ul style="list-style-type: none"> <li>• About 3 a.m., Lonoke County Sgt. Michael Davis conducts a traffic stop at Arkansas 89 and Tower Road, just south of Cabot. During the stop, Hunter Brittain gets out of his truck and walks toward the back of the vehicle and is shot by Davis. An arrest affidavit states Davis fired one shot, striking Brittain in the neck.</li> <li>• 911 call comes in at 3:08 a. m.</li> <li>• At 3:58 a.m., Brittain is pronounced dead at Baptist Health Medical Center in North Little Rock.</li> <li>• Arkansas State Police open an investigation.</li> <li>• Davis is placed on administrative leave.</li> <li>• About 200 people demonstrate outside the Lonoke County sheriff's office.</li> </ul>	<b>SEPT. 1</b>	<ul style="list-style-type: none"> <li>• A coroner's report states Brittain's cause of death was a "gunshot wound to the chest."</li> </ul>
<b>JUNE 30</b>	<ul style="list-style-type: none"> <li>• Brittain's family confirms they have retained attorneys Devon Jacob and Benjamin Crump, who represented the family of George Floyd, who died May 25, 2020 during an arrest when police officer Derek Chauvin kept his knee on Floyd's neck for more than 9 minutes.</li> </ul>	<b>SEPT. 17</b>	<ul style="list-style-type: none"> <li>• Davis is charged with felon possession of a firearm three to 10 years if convicted.</li> <li>• Davis surrenders to Arkansas State Police and is taken to Lonoke County jail, where he is held in an undisclosed county jail.</li> </ul>
<b>JULY 1</b>	<ul style="list-style-type: none"> <li>• Lonoke County Sheriff John Staley announces Davis has been fired after an internal investigation, citing Davis' failure to activate his body camera "in a timely way." Staley says there is no video of the actual shooting.</li> </ul>	<b>SEPT. 19</b>	<ul style="list-style-type: none"> <li>• Davis bonds out of jail, housed at \$15,000.</li> </ul>
		<b>NOV. 15</b>	<ul style="list-style-type: none"> <li>• During a pre-trial hearing, Brittain's family and the state agree to a felony manslaughter charge and a jury trial.</li> </ul>
		<b>JAN. 21</b>	<ul style="list-style-type: none"> <li>• During a status hearing, defense attorneys are moving the trial to another location. The parties agree that chanting outside the courtroom during a previous trial was a distraction.</li> </ul>
		<b>JAN. 23</b>	<ul style="list-style-type: none"> <li>• The Arkansas Democrat-Gazette attorney, Robert Newcomb, joins Barbara Elmore to seal information from the public members. Newcomb cites confidentiality.</li> </ul>



shooting, only the aftermath.

**JULY 6**

- Brittain's funeral is held at the Beebe High School auditorium. Civil-rights activist the Rev. Al Sharpton is among those in attendance.

**JULY 8**

- Lonoke County Prosecuting Attorney Chuck Graham files a motion to recuse from the case, saying Davis "has had a very close working relationship with most members of the prosecutor's office and has recently testified for the state in at least one jury trial."

**JULY 12**

- Prosecuting Attorney Jeff Phillips of the 5th Judicial District is named special prosecutor to decide whether Davis' use of deadly force was justified and whether charges will be filed.

Democrat-Gazette about me potentially contacting jurors them.

**FEB. 1**

- Attorneys receive notification to the Cabot Readiness Center size of the Lonoke County cc

**MARCH 2**

- Elmore files an order sealing after an Arkansas Democrat-Gazette copies of court documents for order comes after multiple a Democrat-Gazette to obtain 1 and email in recent weeks. E two-sentence order that she interest of justice." The judge request from the Democrat-G regarding her "in the interest

Arkansas Democrat-Gazette

In a rare occurrence for Arkansas, a law enforcement officer is set to stand trial Tuesday for a fatal on-duty shooting.

Former Lonoke County sheriff's deputy Michael Davis is accused of recklessly killing 17-year-old Hunter Brittain during an early morning traffic stop June 23. Davis was [charged with felony manslaughter](#) on Sept. 17 by special prosecutor Jeff Phillips of the 5th Judicial District.

A pretrial hearing for Davis is set for 10 a.m. Monday at the Cabot Readiness Center, with the trial scheduled to begin at 9 a.m. Tuesday.

Davis is one of five Arkansas law enforcement officers charged in an on-duty shooting since 2005, according to data collected by the Arkansas Democrat-Gazette and the [Henry A. Wallace Police Crime Public Database](#).

If the case goes to trial without a final-hour plea deal, Davis faces up to 10 years in prison, if convicted. He would be one of three Arkansas officers to go trial for an on-duty shooting since 2005.

If found guilty, he would be the only law enforcement officer in the state's recent history to be convicted of a felony for an on-duty shooting, according to the database.

Brittain, of McRae, was [known to have a passion for vehicles](#) and was test-driving his truck when pulled over by Davis just south of Cabot, a witness told Arkansas State Police investigators. The witness, a friend of Brittain's, said the teen had spent the previous hours working on the truck's transmission.

During the stop, Brittain's car rolled backward toward Davis' vehicle, according to an affidavit. In his last moments alive, Brittain jumped out of the truck, slipping on gravel as he made his way to the rear of his truck, Davis told investigators.

Davis told investigators he shot Brittain when the teen put his hands into the back of the truck. As the bullet struck Brittain in the neck, Davis saw a container fly from the teen's hands and land on the ground, the affidavit states.

National civil-rights attorneys Ben Crump and Devon Jacob have said the teen was grabbing a blue plastic bottle of antifreeze to place behind the wheel because the vehicle wouldn't shift into park.

Davis said he gave Brittain multiple verbal commands before shooting — a statement that conflicts with the witness who said he didn't hear any commands, according to an affidavit.

## NATIONAL HEADLINES

The case made national headlines and gained the attention of civil-rights activists, including the Rev. Al Sharpton, who spoke at [Brittain's funeral](#) on July 6 at Beebe High School, where the teen attended school.

Brittain's family [retained Crump and Jacob](#) soon after the shooting to handle the teen's estate and any civil suits. The attorneys have been involved in high-profile homicide cases that include George Floyd, Breonna Taylor, Trayvon Martin and Ahmaud Arbery.

"Hunter Brittain's family, Ben Crump, and I, strongly believe that based on the facts as we presently know them to be, justice for Hunter requires that Michael Davis be convicted for unlawfully killing him," Jacob said recently in an emailed statement to the Arkansas Democrat-Gazette. "But it is for a jury, and not us, to make that determination." Davis' defense attorney, Robert Newcomb, said he feels it is inappropriate for the civil-rights attorneys to voice their opinion at this point in the criminal proceeding.

"My client has pled not guilty and will stand on that," Newcomb said Friday.

Davis was fired from the Lonoke County sheriff's office on July 1 after Sheriff John Staley said Davis failed to turn on his body camera in a "timely way." Davis has appealed the firing and awaits a grievance hearing.

The former deputy was released on a \$15,000 bond Sept. 19 and pleaded innocent during a pretrial hearing Nov.

15.

According to the public database, other Arkansas law enforcement officers were charged in 2006, 2010, 2012 and 2013.

Former Arkansas State Police Trooper Larry Norman was charged and pleaded guilty to misdemeanor negligent homicide in 2007 for the 2006 death of Joseph Erin Hamley, who had cerebral palsy and a

mental disability.

Norman believed Hamley was a fugitive searching for a gun. Hamley, 21, had toy balls in his pocket. Norman was sentenced to 90 days in jail, a \$1,000 fine, 12 months' probation and 30 days community service.

Former Bella Vista police officer Coleman Brackney pleaded guilty to misdemeanor negligent homicide in 2010 before a trial. He was sentenced to 30 days in jail and a \$1,000 fine for the fatal shooting of James Ahern after a high-speed chase. He had been originally charged with manslaughter. Brackney was hired as the Sulphur Springs police chief in 2013.

Former Little Rock officer Josh Hastings was charged with manslaughter after the Aug. 12, 2012, fatal shooting of 15-year-old Bobby Moore III. He told a jury he feared Moore was driving at him. Prosecutors argued the vehicle was stopped or going backward when the shots were fired.

Hastings was tried twice in 2013, with both juries unable to reach a verdict.

Nancy Regina Cummings, a former Alexander Police Department officer, was found innocent of a felony manslaughter charge by a jury in 2013 in the shooting death of 30-year-old Carleton Wallace. She told investigators her gun accidentally fired as she was handcuffing Wallace.

There have been 159 non-federal sworn law enforcement officers arrested for on-duty shootings in the United States since 2005, according a report by Philip Matthew Stinson, a Bowling Green State University Criminal Justice Program professor who runs the public database. Of those arrests, 51 have been convicted of a crime, 57 have not been convicted and 51 cases are pending. Twenty-one of those convictions were from a guilty plea, 29 by a jury trial and one by a bench trial, according to his report in February.

Stinson said the government has failed to collect appropriate data on officer-involved shootings.

“In terms of police accountability, in terms of transparency, the public has a right to know,” Stinson said Thursday. “Before we started counting, we simply couldn’t answer these questions. It is rare when they [law enforcement] are actually charged, and even more rare when they are actually convicted.”

## ‘TIP OF THE ICEBERG’

Kwami Abdul-Bey, Jacksonville National Association for the Advancement of Colored People legislative and political action committee chair, said the cases that make it to court in Arkansas are only the “tip of the iceberg.” “The fact that Arkansas has not produced a conviction says we have a long road to go, particularly in Arkansas, but also in the United States,” Abdul-Bey said Wednesday. “We need to create a legal system that doesn’t look at people based on their occupational profession but at that human. We can look at that human and see that human has done something.” Mike Laux, a Little Rock attorney who specializes in civil rights, said it is hard for a jury to see an officer as someone who breaks the law.

“It is psychological, I think,” Laux said. “Most of us don’t want to believe that they do bad things.” Laux previously was the attorney for Sylvia Perkins, the mother of Bobby Moore III. Perkins won a settlement of \$415,000 in damages against Hastings. Laux also is the attorney for Little Rock Police Chief Keith Humphrey.

Laux said there are a few things to be commended about how the Brittain case has been handled, including an outside agency handling the investigation and the use of a special prosecutor.

Lonoke County Prosecuting Attorney Chuck Graham filed a motion July 6 to recuse from the case. He said Davis “had a very close working relationship with most members of the prosecutor’s office and has recently testified for the state in at least one jury trial.” On Feb. 1, attorneys in the case were notified the trial would be moved to the Cabot Readiness Center because of the small size of the Lonoke County courtroom. The topic of location first came up during a status hearing where concerns of disruptions were

raised by Newcomb, who noted that the chanting of crowds could be heard inside the courtroom during a Nov. 15 hearing.

Newcomb also has asked for an anonymous jury via motion. He cited concerns to the Democrat-Gazette about the public potentially contacting jurors.

Lonoke County Circuit Judge Barbara Elmore's response to the motion is unknown because she sealed the case March 2. The case was sealed hours after an Arkansas Democrat-Gazette reporter requested the documents in person. The documents also had been requested via phone and email in previous weeks.

The motions could possibly be discussed further during Monday's pretrial hearing.