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VETERANS COURTHOUSE
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ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF DEADLY FORCE WAS JUSTIFIED IN APRIL 29, 2017 POLICE SHOOTING IN NEWARK

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the use of deadly force on April 29, 2017, by an off-duty Jersey City Police Officer, and has concluded that the use of deadly force was legally justified. The ECPO determined that it is not necessary to present this matter to the Grand Jury because there are no material facts in dispute regarding the lawfulness of this use of force. The investigation was conducted in accordance with the July 28, 2015, Attorney General Supplemental Law Enforcement Directive Regarding Uniform Statewide Procedures and Best Practices for Conducting Police Use of Force Investigations ("Directive"). Pursuant to the Directive, the Attorney General's Office conducted an independent review of the use of force and agreed with the ECPO's determination that there are no material facts in dispute and that the use of deadly force by the Officer in this case was justified. The Attorney General's Office concurred with the ECPO that it is not necessary to present this matter to the Grand Jury.

The incident occurred on April 29, 2017, at approximately 1:00 p.m., when the off-duty Officer was on South Clinton St. in East Orange performing routine maintenance on a house that he owned. He was in a driveway between his house and his neighbor's house when he heard gunshots. He turned to see a male suspect holding a handgun and shooting at another male (the "victim") who was attempting to flee. The victim was screaming in pain as a result of a gunshot wound that was inflicted by the suspect. As the suspect continued to pursue the victim, the Officer drew his weapon and shot at the suspect. The suspect then turned his gun and fired at the Officer. The Officer returned fire and struck the suspect. The suspect was pronounced dead on the scene and his handgun was recovered next to his body. The Officer was not wounded. The victim was treated for his gunshot wound at a local hospital and released the same day.

The ECPO's Professional Standards Bureau and Crime Scene Unit conducted an investigation of the shooting. Forensic evidence was collected, police reports were submitted and reviewed, photographs were taken, and witness statements were obtained.

The Officer provided a sworn statement regarding the incident. In his statement, he said that he was in fear for his own life and the life of the victim when he fired his weapon. A statement was also taken from the victim, who stated that he believed the Officer saved his life.

Applying the relevant statutes and the Attorney General's Directive to the undisputed material facts outlined above, the use of deadly force by the Officer was justified pursuant to N.J.S.A.

2C:3-4(a), Use of Force in Self-Protection, and N.J.S.A. 2C:3-5, Use of Force for the Protection of Other Persons. N.J.S.A. 2C:3-4(a) states that “the use of force upon or towards another person is justifiable when the actor reasonably believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion.” Furthermore, N.J.S.A. 2C:3-5 sets forth a three part test to determine if a use of force is justified to protect a third person. First, the actor’s actions would have been justified under N.J.S.A. 2C:3-4 to protect himself from the same injury that the third person was about to suffer. N.J.S.A. 2C:3-5a(1). Second, the actor reasonably believes that the third person would be justified in using force in self-defense himself. N.J.S.A. 2C:3-5a(2). Third, the actor reasonably believes that his intervention is necessary for the protection of the third person. N.J.S.A. 2C:3-5a(3). The law defines a “reasonable belief” as one which would be held by a person of ordinary prudence and intelligence. The Officer indicated that he believed his life and the life of the victim were in danger, and an independent analysis of the undisputed material facts led to the determination that this belief was reasonable. Therefore, the use of deadly force was justified pursuant to all applicable laws and the Attorney General’s Guidelines.