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ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF DEADLY FORCE WAS JUSTIFIED IN AUGUST 24, 2017 FATAL POLICE SHOOTING IN ORANGE

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the August 24, 2017 use of deadly force by an Essex County Sheriff's Officer ("Officer 1") and has concluded that the use of force was legally justified. ECPO determined that it is not necessary to present this matter to the Grand Jury because there were no material facts in dispute regarding the lawfulness of the 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 ECPO's determination that there were no material facts in dispute and that the use of deadly force by Officer 1 in this case was justified. The Attorney General's Office concurred with ECPO's conclusion to forego presentation of this matter to the Grand Jury.

The incident occurred on August 24, 2017, at approximately 5:30 pm, in response to the commission of a Robbery at PNC Bank, 410 Main Street, Orange, New Jersey. One (1) black male suspect gave a bank teller a handwritten note indicating a robbery, and then fled on foot with a bag containing cash proceeds. Officer 1 and Officer 2 were on-duty in the area, and observed the suspect exit the bank and run toward 32 Lincoln Avenue (Tony Galento Plaza) located across from the Orange Train Station. The Officers exited their unconventional vehicle with their badges around their necks, and yelled "Police! Stop!" Officer 1 grabbed the suspect by the right shoulder, but the suspect swung at him, striking him in the eye. The suspect continued to run, and Officer 1 again yelled "Stop! Police!" The suspect then stopped, turned around, and started to retrieve a black firearm from his waistband. Both Officer 1 and Officer 2 drew their duty issued weapons, and Officer 1 yelled to the suspect "Don't do it! Don't do it!" The suspect continued to retrieve the weapon, and Officer 1 fired one (1) round, striking the suspect in the torso. Immediately thereafter, EMS was requested, and Officers began rendering aid. EMS transported the suspect to the Hospital for treatment where he later succumbed to his injuries.

Personnel from the ECPO's Professional Standard Bureau (PSB) and ECPO Crime Scene Unit (CSU) responded and conducted an investigation. CSU recovered the suspect's black firearm, a bag containing US Currency including bank bait money, and multiple versions of the handwritten robbery note. Surveillance video from the Bank and the Plaza were reviewed, and statements were obtained from civilians and law enforcement personnel. The statements, including that of a civilian eye-witness to the shooting as well as Officer 1 and Officer 2, were consistent with each other and the additional evidence.

Applying the Directive to the undisputed material facts outlined above, the use of deadly force by Officer 1 was justified pursuant to N.J.S.A. 2C:3-5, Use of Force in Protection of Others, and N.J.S.A. 2C:3-4, Use of Force in Self-Protection. N.J.S.A. 2C:3-5 provides that “the use of force upon or toward another person is justifiable to protect a third person when: (1) The actor would be justified under section 2C:3-4 in using such force to protect himself against the injury he believes to be threatened to the person whom he seeks to protect; and (2) Under the circumstances as the actor reasonably believes them to be, the person whom he seeks to protect would be justified in using such protective force; and (3) The actor reasonably believes that his intervention is necessary for the protection of such other person.” N.J.S.A. 2C:3-4, Use of Force in Self-Protection, states that “the use of force upon or toward 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.” The law defines a “reasonable belief” as one which would be held by a person of ordinary prudence and intelligence situated as the actor was.

Officer 1 indicated that he was in fear for his life and the life of his partner when the fleeing robbery suspect brandished a firearm and disobeyed police verbal commands. Officer 1 also had reason to be concerned for the safety of bystanders at this public and residential area. Officer 1 believed that discharging his weapon was necessary for the protection of life. An independent analysis of the undisputed material facts led to the determination that the Officer 1’s beliefs were reasonable, and the use of deadly force in this matter was justified pursuant to all applicable laws and the Attorney General Guidelines. This statement was prepared and disseminated to the public in accordance with §8 of the Directive.

PSB# 2017-258