

# OFFICE OF THE ESSEX COUNTY PROSECUTOR

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### ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF DEADLY FORCE WAS JUSTIFIED IN OCTOBER 29, 2017 FATAL POLICE SHOOTING IN NEWARK

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the October 29, 2017 use of deadly force by an off-duty Jersey City Police Department Police Officer ("the Officer") 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 Attorney General's Independent Prosecutor Directive (July 28, 2015 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 the Officer 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 October 29, 2017, at approximately 11:25 pm, in the area of 195 South 6<sup>th</sup> Street in the City of Newark. The Officer, the mother of his children, and his two juvenile children were present in the Officer's vehicle. As they were in the process of bringing the children into a residence, three (3) individuals wearing hoods and gloves approached the vehicle. Suspect 1 produced a handgun and told the Officer to "run his pockets." Realizing that he was being robbed at gunpoint and fearing for his life and his child's life, the Officer drew his weapon and shot Suspect 1. From his point of view, the officer then observed Suspect 2 pointing a handgun at him. The Officer fired, striking Suspect 2. Suspect 3 fled the scene on a bicycle and was never identified. Members of the Newark Police Department and EMS responded to the location. Suspects 1 and 2 were pronounced dead at the scene.

Personnel from the ECPO's Professional Standard Bureau (PSB) and ECPO Crime Scene Unit (CSU) responded and conducted an investigation. CSU recovered the suspects' two handguns. Additionally, statements were taken from the Officer, the mother of his children, and a civilian witness. The statements were consistent with each other and with the physical evidence.

Applying the 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:3-5, 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.

The Officer, a victim of an attempted robbery by two suspects armed with handguns, stated that he was in fear of his life, as well as the life of his child. The Officer 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’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.

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