

# OFFICE OF THE ESSEX COUNTY PROSECUTOR

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## **ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF DEADLY FORCE WAS JUSTIFIED IN DECEMBER 10, 2017, NON-FATAL POLICE SHOOTING IN NEWARK**

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the December 10, 2017, use of deadly force by an off-duty Corrections Officer ("the Officer") with the Essex County Department of Corrections, 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 December 10, 2017, inside the Officer's residence in the City of Newark. The Officer was asleep in the second-floor bedroom of her residence when she heard a loud bang and glass shattering. Immediately, she hid in the bedroom closet and called 911 to report that she believed burglars entered her home. She picked up her department-issued duty weapon as she heard someone ascending the stairs to the second floor. While still on the phone with 911, she walked out of her closet and saw a male at the top of the stairs. The male advanced toward her. The Officer then discharged two rounds at the male. The male then ran down the stairs, exited the house, and fled the scene.

Home surveillance video from inside of the Officer's first-floor living room showed a male (Suspect 1) entering the residence from a rear window. That male then opens the back door for a second male (Suspect 2), who enters the kitchen. Suspect 2, clad in a black hoodie and gloves locks the front door and proceeds up the stairs to the second floor. Suspect 1 then follows Suspect 2 up the stairs. Seconds later, both suspects run down the stairs and out the back door. The Officer then descends the stairs holding her duty weapon in one hand and her cell phone in the other.

Personnel from the ECPO's Professional Standard Bureau (PSB) and ECPO Crime Scene Unit (CSU) responded and investigated. Additionally, statements were taken from the Officer 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:3-4, Use of Force in Self-Protection. The statute 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 a home-invasion for the second time, stated that she was in fear of her life when a suspect advanced toward her, cornering her in her bedroom. The Officer believed that discharging her weapon was necessary for the protection of her 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.