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THE ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF FORCE WAS JUSTIFIED IN SEPTEMBER 25, 2018 FATAL POLICE SHOOTING BY EAST ORANGE POLICE OFFICERS IN THE CITY OF NEWARK

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the September 25, 2018 use of deadly force by three (3) East Orange Police Officers. ECPO has concluded that the uses of force were legally justified, and 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 uses of force. The investigation was conducted in accordance with the then applicable Attorney General's Independent Prosecutor Directive (July 28, 2015 Attorney General Supplemental Law Enforcement Directive Regarding Uniform Statewide Procedures and Best Practices for Conducting Police Use of Force Investigations) and Independent Prosecutor Directive 2019-4 ("Directives").¹ Pursuant to those Directives, the Attorney General's Office conducted an independent review of the uses of force and agreed with ECPO's determination that there were no material facts in dispute and that the use of force by these officers were justified. The Attorney General's Office concurred with ECPO's conclusion to forego presentation of this matter to the Grand Jury.

On September 25, 2018, at approximately 9:45 pm, Officers 1 and 2 of the East Orange Police Department (EOPD) Enhanced Community Safety Team (ECST) were canvassing for a domestic violence suspect in the area of Central Avenue and South 18th Street. The suspect was reported to have physically assaulted his child's mother, brandished a black handgun, and threatened to shoot her and the police if she reported him. Utilizing an unmarked police vehicle, hereinafter Vehicle #1, Officers 1 and 2 located an individual matching the description of the suspect entering a Coach USA bus. The officers boarded the bus to further investigate, but they quickly exited when the individual pointed a black handgun at them. The individual, later identified as the domestic violence suspect, then pointed his handgun at the bus driver's head and ordered her to drive away.

The officers reported the events over the air and pursued the bus with the lights and sirens of Vehicle #1 activated. EOPD ECST Officers 3 and 4 received the update over the air and followed Vehicle #1 in their unmarked police vehicle, hereinafter Vehicle #2.

¹ Because this incident occurred prior to January 30, 2019, presentation to the grand jury was not required under Senate Bill 1036, which modified N.J. Statutes 52:17B-107, and requires the Attorney General to conduct investigations of fatal police encounters and present the them to the Grand Jury.

The suspect ordered the bus driver to stop in the area of Central Avenue and South 10th Street, in the City of Newark, and she complied. The suspect ran off the bus and fled south on South 10th Street. Officer 2 exited Vehicle #1 and chased after the suspect on the opposite side of the street. The suspect opened fire on Officer 2 from behind a parked white van. Officer 2 was able to duck and take cover on the ground behind a parked vehicle. Officer 1 pulled Vehicle #1 onto South 10th street and slowly stopped in the street. The suspect opened fire in the direction of Officer 1 and Officer 2, and Officer 1 returned fire at the suspect. Officer 2 did not discharge his weapon as Vehicle #1 was in his line of fire.

Officers 3 and 4 arrived on South 10th Street amidst the gun fire. Both officers exited and took cover behind Vehicle #2. Officer 3 approached the sidewalk from the opposite end of the white van, but the suspect backtracked north and intersected with Officer 3. The suspect pointed his handgun at Officer 3 who in turn discharged his weapon at the suspect. The suspect was struck but continued to run/stumble forward. The suspect again pointed his weapon at Officer 3 and the officer again discharged his weapon at the suspect. Meanwhile, Officer 4 had emerged from the rear of Vehicle #2 and observed the suspect point the firearm in his direction. Officer 4 discharged one (1) round at the suspect.

The suspect fell to the ground and dropped his firearm. EMS was immediately requested while aid was rendered by EOPD and Newark Police. The suspect was transported to University Hospital where he was pronounced deceased shortly thereafter.

Personnel from ECPO's Professional Standards Bureau (PSB) and Crime Scene Investigative Bureau (CSIB) responded and investigated this officer-involved shooting. PSB canvassed the area for video and witnesses. PSB reviewed all available audio and video footage and took statements from civilians and law enforcement personnel.

CSIB processed and photographed the scene. All officers' duty weapons were recovered and analyzed. Officer 1's weapon was empty and thirteen discharged casings were recovered from Vehicle #1 consistent with having been discharged from Officer 1's weapon.

Officer 3's weapon was loaded with seven (7) rounds in the 12-round capacity magazine. Officer 4's weapon was loaded with 12 rounds in the 12-round capacity magazine. The suspect's weapon was also recovered and analyzed. It revealed to be a stolen, operable, Taurus PT99 AF 9mm handgun loaded with eight (8) hollow point live rounds and three (3) ball rounds in the fifteen-round capacity magazine.

The CSIB recovered five (5) discharged casings from South 10th Street and the sidewalk area that were consistent with having been discharged from the weapons of Officers 3 and 4. Another three (3) discharged casings were recovered from the street and sidewalk area that revealed positive for having been discharged from the suspect's gun.

Applying the relevant statutes and the Directive to the undisputed material facts outlined above, the uses of deadly force by Officers 1, 3 and 4 were justified pursuant to N.J.S.A. 2C:3-4(a), Use of Force In Self-Protection. N.J.S.A. 2C:3-4(a) provides 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.

Officers 1, 3, and 4 indicated their beliefs that their lives were in imminent danger when the suspect shot at them, or pointed his handgun at them, respectively. They indicated that they believed they needed to utilize deadly force immediately in those moments in order to prevent themselves from getting shot. An independent analysis of the undisputed material facts led to the determination that these beliefs were reasonable. Therefore, these uses of deadly force were 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# 2018-276.