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THE ESSEX COUNTY PROSECUTOR'S OFFICE CONCLUDES THAT USE OF FORCE WAS JUSTIFIED IN SEPTEMBER 27, 2018 FATAL POLICE SHOOTING IN NEWARK

The Essex County Prosecutor's Office ("ECPO") has completed its investigation into the September 27, 2018 use of deadly force by eight (8) Police Officers of the Essex County Sheriff's Office, the Newark Police Department, and the Irvington Police Department. ECPO has concluded that the use of force was 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 use of force. The investigation was conducted in accordance with the 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"). Pursuant to the Directives, 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 force by these officers was justified. The Attorney General's Office concurred with ECPO's conclusion to forego presentation of this matter to the Grand Jury. The incident predates Senate Bill 1036, which modified N.J. Statutes 52:17B-107, and requires presentation to a Grand Jury of certain fatal incidents.

On September 27, 2018, at approximately 3:00 pm, a law enforcement taskforce comprised of multiple agencies was investigating the illegal sale of guns in the city of Newark. The taskforce, led by the Essex County Sheriff's Office (ECSO), conducted surveillance of Suspect 1 who was believed to be in the area to sell a firearm. Suspect 1 entered the passenger side of a large pick-up truck driven by Suspect 2. The taskforce followed this suspect vehicle and investigation revealed the presence of guns inside the suspect vehicle.

When the suspect vehicle was stopped at a red traffic light on Bergen Street near the intersection of Lyons Avenue, various members of the taskforce attempted to effectuate the arrests of Suspect 1 and Suspect 2. Four (4) unmarked police vehicles, with lights and sirens activated, surrounded the suspect vehicle. Officers 1 through 8 of the taskforce, exited those vehicles and surrounded the suspect vehicle. The officers were wearing ballistic vests and had their police badges exposed around their necks. The officers drew their weapons and continuously yelled commands for the suspects to stop the vehicle/show their hands. Neither suspect surrendered.

Officer 1 approached the driver side of the suspect vehicle along with Officer 4. Officer 1 banged on the driver side window while shouting commands. Suspect 2 rapidly turned his steering

wheel, quickly reversed the suspect vehicle at an angle, and crashed into the police vehicle behind him. Officer 1 became pinned between the suspect vehicle and the police vehicle. The suspect vehicle accelerated forward, almost dragging Officer 1 along with it. Officer 1 banged the butt of Officer 1's weapon against the driver window causing it to break but not shatter.

The suspect vehicle proceeded forward and struck the front of another police car that had partially blocked it in. The impact caused said police vehicle to be propelled into Officer 2. The suspect vehicle continued accelerating directly into the path of Officer 3, who was able to lunge out of the way. The suspect vehicle then crashed into a civilian vehicle that was stopped in front of it.

The suspect vehicle then cut hard left and travelled over the front hood of the police vehicle that was partially blocking it in, attempted to travel the wrong way on Bergen Street, but crashed into a tree and became disabled.

Officers 1 through 8 discharged their weapons toward Suspect 2 when he attempted to flee the scene by using the suspect vehicle as a deadly weapon. All police shooting ceased once they believed there was no longer a threat. Suspect 2 then showed his hands and exited the driver side of the suspect vehicle. EMS transported him to University Hospital where he was treated for multiple gunshot wounds to the body. Suspect 1 was struck by multiple gunshots and was pronounced deceased on the scene. Officers reported minor injuries, if any. No civilians reported injuries.

Personnel from ECPO's Professional Standard Bureau (PSB) and Crime Scene Investigative Bureau (CSIB) responded and investigated this officer-involved fatal shooting. PSB canvassed the area for witnesses and reviewed all available video surveillance. Statements were obtained from civilians, law enforcement personnel, and Suspect 2.

CSIB processed and photographed the scene, and recovered and processed multiple law enforcement and civilian vehicles and weapons. Ballistic analysis revealed that seventy-four (74) rounds were discharged between all eight (8) officers.

Inside the suspect vehicle, CSIB recovered one loaded 9MM handgun, one 7.62x39MM assault rifle, and one 12-gauge shotgun. Ballistic analysis revealed said weapons were operable. Also inside the suspect vehicle, CSIB recovered: three (3) rifle magazines, one (1) rifle bipod, 127 rounds of 7.62 ammunition, and eight (8) twelve-gauge shotgun shells.

Applying the relevant statutes and the Directive to the undisputed material facts outlined above, the use of deadly force by all eight (8) officers who discharged their weapons were justified pursuant to N.J.S.A. 2C:3-4(a), Use of Force In Self-Protection and/or N.J.S.A. 2C:3-5, Use of Force In Protection of Others. N.J.S.A. 2C:3-4(a) 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."

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.” 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.

All eight (8) officers in this case indicated their beliefs that either themselves or their fellow officers were in imminent danger of serious bodily injury or death, and that intervention by utilizing deadly force was immediately necessary to prevent same. An independent analysis of the undisputed material facts led to the determination that their 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 the Directives.

PSB# 2018-277.