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### **Mercer County Prosecutor's Office Concludes Use of Force was Justified in June 17, 2018 Art All Night Festival in Trenton**

The Mercer County Prosecutor's Office (MCPO) has completed its investigation into the June 17, 2018 use of force at the Art All Night festival by two detectives and two officers of the Trenton Police Department, and has concluded that the use of force was legally justified. The MCPO 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 then applicable Attorney General's Independent Prosecutor Directives (July 28, 2015 Attorney General Supplemental Law Enforcement Directive Regarding Uniform Statewide Procedures and Best Practices for Conducting Police Use of Force Investigations and the Independent Prosecutor Directive 2019-4) ("Directives").<sup>1</sup> Pursuant to those Directives, the Attorney General's Office conducted an independent review of the use of force and agreed with MCPO's determination that there were no material facts in dispute and that the use of force by the officers was justified. The Attorney General's Office concurred with MCPO's conclusion to forego presentation of this matter to the Grand Jury.

The incident occurred on June 17, 2018, at the Art All Night event being held at 635 South Clinton Avenue, in the city of Trenton. At approximately 3:25 a.m., the Mercer County Homicide Task Force (HTF) was activated to investigate an officer-involved

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<sup>1</sup> 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 them to the Grand Jury.

shooting that occurred in the indicated area. The investigation, which encompassed investigative reporting, statements of officers and witnesses, radio transmissions, photographs, camera footage and physical evidence, revealed the following facts:

On June 16, 2018, members of the Trenton Police Department were assigned to work the Art All Night (AAN) event taking place at the Roebling Wire Works building, located at 635 S. Clinton Avenue, in Trenton. This annual event was scheduled from 8 a.m. on June 16, 2018, to 8 a.m. on June 17, and historically attracts thousands of people.

Trenton Police detectives were scheduled to work the event from 8 p.m. on June 16 to 3 a.m. on June 17. Officers described a larger than usual crowd and noted that as the night progressed, multiple fights occurred throughout the venue. To assist with crowd issues, a Trenton sergeant and lieutenant requested additional detectives and officers to assist.

At approximately 2:15 a.m., officers were advised that the event was being shut down until the following morning. As a result, officers began requesting the crowd move toward Dye Street. Officer 1 and another officer stood in front of the Roebling Wire Works building to prevent patrons from re-entering. Officer 1 was standing approximately 10 feet away from the front entrance doors when he observed the doors open and saw patrons attempting to leave the Roebling Wire Works building. At this time, Officer 1 heard gunshots coming from inside the building. Officer 1 turned around, looked inside and observed a black male, wearing a dark shirt with a pattern and blue jeans, who was later identified as Tahaj Wells. According to Officer 1, Wells appeared taller than the crowd of people. Officer 1 believed that Mr. Wells may have been standing on something to give him extra height. Officer 1 continued to observe Mr. Wells and saw him shooting a handgun in a downward position into the crowd. Mr. Wells shot into the crowd approximately 10 times. Officer 1 drew his firearm as Mr. Wells ran in his direction. Mr. Wells was leaning to the right with his hand elevated as he held the handgun. Officer 1 fired his weapon at Mr. Wells multiple times as Mr. Wells continued to move and would not show his hands. Mr. Wells collapsed as officers yelled "cover" and moved in to handcuff him.

At the same time, Officer 2, who was positioned near the front entrance doors of the Roebling Wire Works building, heard multiple gunshots from inside the building and saw patrons running from the area. As Officer 2 ran toward the left side of the Roebling Wire Works building, he also observed Mr. Wells. Fearing for his safety and that of others in the area, Officer 2 also discharged his police-issued firearm twice at Mr. Wells and heard additional gunfire in the area as well. Officer 2 then observed Mr. Wells fall to the ground. Officer 2 holstered his weapon and handcuffed Mr. Wells with the assistance of

Detective 1. Mr. Wells was later pronounced deceased. Two firearms were recovered near Mr. Wells' body.

Like Officer 2, Detective 1 was positioned near the front entrance doors of the Roebling Wire Works building at approximately 2:15 a.m. Detective 1 was positioned with Officer 1 when he heard multiple gunshots coming from inside of the building. Patrons began screaming and running out of the building. Detective 1 drew his police-issued firearm to a "low ready position" while scanning the crowd. (A low ready position is handgun drawn and ready to shoot.) Detective 1's attention was drawn to Mr. Wells coming out of the building with a gun in his hand pointed in an upward position. Detective 1 perceived Mr. Wells as a threat and fired his police-issued firearm at him. Mr. Wells fell to the ground with his hands in his waistband. Detective 1 began to verbally give Mr. Wells commands as he moved toward him. Detective 1 holstered his weapon and Officer 2 assisted him with handcuffing Mr. Wells. Detective 1 heard additional gunshots and "chaos" around him. He drew his firearm and continued to scan the crowd.

Detective 2 was situated in the area near the front entrance doors of the Roebling Wire Works building. Detective 2 observed Officer 1 by the front entrance doors of the Roebling Wire Works building attempting to move patrons out of the area. Detective 2 closed one of the front entrance doors of the building. He was advised by security that there was a physical altercation inside of the building. Detective 2 took a few steps into the building when he heard multiple gunshots. He drew his police-issued firearm and began scanning for the threat as he moved backward into Dye Street. Detective 2's attention was drawn to a black male running from inside of the building toward Dye Street with a handgun in a low ready position. This individual was later identified as Davone White. Detective 2 observed Officer 1 discharge his weapon at Mr. Wells as Mr. Wells continued running toward Dye Street and stumbled to the ground. As this occurred, Mr. White turned around, raised his handgun and pointed it in Detective 2's direction. Detective 2 fired his weapon until Mr. White fell to the ground and was no longer a threat. Detective 2 then approached Mr. White. A handgun and an extended magazine that Detective 2 observed in Mr. White's hand were collected near Mr. White's location. Mr. White survived.

In response to the gunfire and commotion, Detective 3 radioed Trenton Police Communications, advised of the gunshots fired, and requested additional units to respond. In response to the gunshots, Detective 3 and Officer 3 proceeded into the Roebling Wire Works building with their weapons drawn and began ordering everyone to the ground.

While inside the Roebling Wire Works building, Detective 3 and Officer 3 attended to several gunshot victims. They located a victim, later identified as Amir Armstrong, on

the floor with a gunshot wound to the right side of his head. In order to assess his condition, Officer 3 and Detective 3 began to cut away Mr. Armstrong's white t-shirt and observed a silver revolver tucked into the right side of his waistband. Detective 3 removed the revolver from Mr. Armstrong's waistband and secured it. Detective 3 then utilized Mr. Armstrong's white t-shirt to apply pressure to his wound while awaiting the arrival of emergency personnel on scene. Mr. Armstrong survived. The investigation revealed Mr. Armstrong was not shot by police but had been shot during the altercation in the building.

At approximately 2:45 a.m., Trenton Police Officers 4 and 5 were detailed to 635 S. Clinton Avenue on the report of shots fired. Upon their arrival, they observed people running from the scene and began to assist Trenton Emergency Medical Services with multiple gunshot victims. Officer 4 proceeded to the front entrance of the Roebling Wire Works building near Dye Street and observed multiple officers crouched down near Mr. Wells. Officer 4 stated that Mr. Wells appeared to be handcuffed and was lying face down by the door.

Mr. Wells was transported by paramedics to Capital Health Regional Medical Center. White was also transported by paramedics to Capital Health Regional Medical Center. At approximately 3:17 a.m., Mr. Wells was pronounced dead. Additional injured individuals were located and transported either by ambulance or by the police to Capital Health Regional Medical Center for further treatment.

Trenton police officers secured the area. In addition, they secured the surrounding streets in the area of 635 S. Clinton Avenue. While securing the surrounding areas, Trenton police officers located a red, four-door 2007 Pontiac G6 bearing a temporary New Jersey tag with heavy damage to the rear door. The owner of the vehicle was later identified. She reported that she was carjacked by an individual with a handgun during the Art All Night event. Despite investigation, no subject was linked to this occurrence and thus no charges were filed. No direct link to the shooting in the Roebling Wire Works building could be gleaned from the investigation.

At approximately 4:45 a.m., a sergeant with the Mercer County Homicide Task Force authorized all officers with body worn cameras to turn off their equipment. The New Jersey Attorney General's Office chief of detectives was advised of the investigation.

Approximately 75 potential witnesses were located inside of the Roebling Wire Works building. Detectives from the Mercer County Prosecutor's Office interviewed the witnesses. All witnesses described hearing multiple gunshots; however, most could not identify any suspects or provide additional information pertaining to the investigation. It was determined that one bystander had been struck by a bullet fired by an officer. That bystander survived.

The Shot Spotter gunfire detection system captured 26 gunshots fired near the Roebling complex. This is located in the immediate area of where Trenton police officers responded to gunfire and observed Mr. Wells and Mr. White armed with handguns fleeing from the Roebling Wire Works building.

At approximately 7 a.m., the New Jersey State Police Crime Scene Unit responded to the Roebling Wire Works building and processed the scene. Items collected at the crime scene included, but were not limited to, the following firearms: a Glock 22 handgun with magazine, discovered in the garbage can near the building's front entrance doors; a black handgun with a large-capacity magazine located in close proximity to Davone White; a JA 380 handgun located in the parking lot of 635 S. Clinton Avenue; and a Taurus revolver located on Amir Armstrong.

In conformance with Trenton Police Department policy, a blood draw was taken from Officers 1 and 2 as well as Detectives 1 and 2. Laboratory analysis of all of the blood samples yielded negative findings for either ethyl alcohol or any impairing drugs at the time of this incident.

As a result of the investigation, Amir Armstrong was charged with unlawful possession of a weapon and receiving stolen property. He pleaded guilty in June 2019 to certain persons not to possess a firearm and is awaiting sentencing. Davone White was charged with possession of a weapon for an unlawful purpose, unlawful possession of a weapon, possession of a large capacity ammunition magazine, aggravated assault and certain persons not to possess a weapon. He pleaded guilty in June 2019 to possession of a weapon for unlawful purpose and is also awaiting sentencing.

Applying the Directives to the undisputed material facts outlined above, the use of force by Detectives 1 and 2, and Officers 1 and 2, was legally justified. Under the *Attorney General's Use of Force Guidelines (Rev. June 2000)*, an officer may use deadly force when he or she reasonably believes it is "immediately necessary to protect the officer . . . from imminent danger of death or serious bodily harm." *Sec. I.B.1.* The New Jersey Criminal Code also justifies the use of deadly force in self-defense where "the actor believes that such force is necessary to protect himself against death or serious bodily harm." N.J.S.A. 2C:3-4b(2). N.J.S.A. 2C:3-5 governs use of force for the protection of others, and provides that use of force to protect another is justified where: (1) it would have been justified to protect the actor himself under N.J.S.A. 2C:3-4; (2) under the circumstances as the actor reasonably believed them to be, the person whom he seeks to protect would be justified in using such force; and (3) the actor reasonably believes 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 situated. The detectives and officers believed that discharging their weapons was necessary for the protection of their lives and the lives of the many people present. An independent analysis of the undisputed material facts led to the determination that the beliefs of the detectives and officers were reasonable, and the use of 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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