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Mercer County Prosecutor's Office Concludes That Use of Force was Justified in March 22, 2021 Non-Fatal Police Shooting in Hamilton

The Mercer County Prosecutor's Office (MCPO) has completed its investigation into the March 22, 2021, use of force by a federal agent, 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 Attorney General's Independent Prosecutor Directives (July 28, 2015, Supplemental Law Enforcement Directive Regarding Uniform Statewide Procedures and Best Practices for Conducting Police Use of Force Investigations) ("Directives"). Pursuant to the Directives, the Attorney General's Office conducted an independent review of the use of force and agreed with the MCPO's determination that there were no material facts in dispute and that the use of force by the special agent in this case was justified. The Attorney General's Office concurred with the MCPO's conclusion to forego presentation of this matter to the grand jury. Because this was a non-fatal shooting, 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.

On March 22, 2021, the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and Federal Bureau of Investigation (FBI) were conducting a joint undercover investigation involving the purchase of handguns. During the undercover transaction, the suspect pointed a handgun at an ATF special agent and demanded the money. During this robbery, the agent turned over United States currency and was ordered to exit the vehicle. The agent exited the vehicle, stepped toward the rear of the undercover

vehicle, and fired his weapon at the armed suspect. The suspect also fired his weapon at the undercover agent and then exited the vehicle and fled on foot on Atlantic Avenue. While fleeing on Atlantic Avenue, there was an additional exchange of gunfire. Minutes later, Jabree Johnson arrived at Capital Health Regional Medical Center with a non-fatal gunshot wound to the shoulder. Johnson was determined to be the suspect. Johnson was charged with one count of assault on a federal officer with a deadly weapon, one count of robbery with a dangerous weapon of an individual with custody of federal property, and one count of using and carrying a firearm during and in relation to a crime of violence, in which the firearm was discharged. That federal case is currently pending.

Personnel from the Mercer County Homicide Task Force responded and investigated. Additionally, statements were taken from the federal agents present and civilian witnesses. The statements were consistent with each other and the physical evidence.

Applying the Directives to the undisputed facts outlined above, the use of force by the special agent was justified pursuant to N.J.S.A. 2C:3-4, Use of Force in Self-Protection and N.J.S.A. 2C:3-5, Use of Force for the Protection of Other Persons. 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." N.J.S.A. 2C:3-5(a) provides that, "the use of force upon or towards the person of another is justifiable to protect a third person when "the use of force upon or toward the person of another is justifiable to protect a third person when, 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 he seeks to protect, and 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 the actor reasonably believes that his intervention is necessary for the protection of such other persons." 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 ATF special agent stated he was in fear for his own life and that of his partner when Mr. Johnson pointed a loaded firearm at him during the robbery. The agent believed that discharging his weapon was necessary for the protection of his life and that of his partner. An independent analysis of the undisputed material facts led to the determination that the agent's beliefs 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 Section 8 of the Directives.

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