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INVESTIGATION OF OFFICER-INVOLVED SHOOTING CONCLUDES; OFFICER CLEARED IN USE OF FORCE

YORK, Pa. (November 26, 2018) – York County District Attorney Dave Sunday announced today that the investigation of the police shooting of Logan James Montgomery has concluded and has determined that the shooting was a lawful use of force.

The investigation of the police involved shooting was conducted by the Pennsylvania State Police, as is the normal procedure for officer-involved shootings in York County. The West Manchester Township Police Department and the Officer involved cooperated with the investigation¹.

On 8/23/18, a West Manchester Township Police Officer was assigned to investigate the retail theft of a Walmart. Through the course of the investigation, a vehicle description led to the identification of two suspects: Logan James Montgomery and his wife. It was further determined that they were staying at a Motel 6 on Route 30 in York County, Pennsylvania. Upon arrival at the Motel 6 located at 125 Arsenal Road, Manchester Township, the suspect's vehicle, a 1998 Ford Escort was located in the parking lot. The West Manchester Township Police Officer along with the assistance of a Northern York County Regional Police Officer walked into the lobby and confirmed that Logan Montgomery rented a room within the Motel.

Accordingly, both officers approached the room where Logan Montgomery and his wife were registered in furtherance of the retail theft investigation. After Montgomery was taken into custody, the West Manchester Township Police Officer attempted to search his back pockets. Montgomery pulled away aggressively and twisted his body to the left of the Officer. While the Officer was attempting to regain control, Montgomery moved his hands to the right side of his body and discharged a firearm. The Officer recalled that it sounded like the gunshot was right at his ear. It was later discovered that Montgomery obtained a firearm that morning for the stated purpose of committing armed robberies, had it on his person at the time of the incident, and fired a round from it during this altercation.

The West Manchester Township Police Officer said that he was fearful for his life and knew that Montgomery was shooting at him. After the gun was discharged, the Officer pushed Montgomery away to put some distance between the two of them, drew his duty weapon and discharged it at Montgomery. The events transpired so fast that the Officer did not have time to give any verbal commands and he related that he was in fear of serious bodily injury not only for himself, but for others in the motel.

¹In the case of a shooting that has been deemed justified, it is the policy of the District Attorney's Office not to release the name of the person who fired and is not being charged with any crime, whether that person is a regular citizen or a member of law enforcement.

“The witness statements and physical evidence support a clear conclusion that after being shot at, this Officer’s fear of death or serious bodily injury was certainly justified,” said Sunday. “The thorough investigation conducted by the Pennsylvania State Police clearly indicate that the facts and circumstances of this incident support the use of deadly force and therefore do not warrant any criminal charges against the officer involved.”

The rules governing the use of force in self-protection and protection of others are provided for in Pennsylvania Law. Generally, the use of force upon or toward another person is justifiable when the actor 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. 18 Pa.C.S.A. § 505(a). “Deadly Force” is defined as “force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.” 18 Pa.C.S.A. §501.

In Pennsylvania, the use of deadly force by a law enforcement officer is governed by Section 508 of the Pennsylvania Crimes Code. A law enforcement officer is “justified in using deadly force only when he believes that such force is necessary to prevent death or serious bodily injury to himself or such other person...” 18 Pa.C.S.A. §508(a). In addition, the use of deadly force by law enforcement officers is justified to defeat...the escape of a person who possesses a deadly weapon, or otherwise indicates that he will endanger human life or inflict serious injury unless arrested without delay. 18 Pa.C.S.A. §508(a)(1)(i)(ii).

The law regarding use of force for protection of other persons is found in 18 Pa.C.S.A. § 506. That section permits the use of force when the actor would be justified under § 505 in using such force to protect himself against the injury he believes to be threatened to the person whom he seeks to protect and he believes such intervention is necessary for the protection of the other.

There are specific provisions that relate to the use of deadly force. As stated in the Pennsylvania Crimes Code, the use of deadly force is not justifiable unless the actor believes that such force is necessary to protect himself against death or serious bodily injury, nor is it justifiable if the actor provoked the use of force against himself in the same encounter, or the actor knows that he can avoid the necessity of using such force with complete safety by retreating.

It should be noted, however, that a police officer justified in using force in the performance of his duties is not obliged to desist from efforts to perform such duty, because of resistance or threatened resistance. 18 Pa.C.S.A. § 505(b). In this context, a person employing protective force may estimate the necessity thereof under the circumstances, as he believes them to be when the force is used, without retreating.

In Graham v. Connor, 490 U.S. 386, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident “including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers, and whether he is actively resisting arrest or attempting to evade arrest by flight.” Id. at 396. Further the Court stated, “[t]he reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision hindsight.” Id. at 396. Moreover, “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgements – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.” Id. at 396-397).

Indeed, a claim of justification cannot be defeated by showing that the actor used more force than was necessary so long as he reasonably believed it was immediately necessary to kill in order to protect himself against death or serious bodily harm. See Commonwealth v. Fisher, 491 Pa 231, 420 A.2d 427 (1980).

Mr. Montgomery was pronounced dead on August 25, 2018 at 9:24 P.M. An autopsy by Forensic Pathology Associates on August 28, 2018 determined that he died as a result of one gunshot wound.

Approved for release:

Dave Sunday

