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OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LAW AND PUBLIC SAFETY

OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY

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**OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY (OPIA)
STANDARD OPERATING PROCEDURES**

TO: Prosecutors and investigators handling fatal police encounter investigations

FROM: Thomas J. Eicher, OPIA Executive Director

DATE: July 13, 2021

SUBJECT: **Grand Jury Presentations in Fatal Police Encounter Investigations**

At the direction of Attorney General Gurbir S. Grewal, the Office of Public Integrity and Accountability (“OPIA”) is establishing these standard operating procedures (“SOP”) for grand jury presentations of investigations involving fatal police encounters.

Introduction

In December 2019, Attorney General Grewal issued Attorney General Law Enforcement Directive 2019-4, also known as the “Independent Prosecutor Directive,”¹ which established a mandatory ten-step process for conducting independent criminal investigations in cases involving fatal police encounters.

These SOP cover the preparation and presentation of matters to the grand jury, encompassed in Steps 6 through 10 of the Independent Prosecutor Directive, after the investigative process has been completed. In particular, Step 8 of the Directive addressed the presentation of evidence to a grand jury. Step 8 distinguished between two categories of cases: those where the prosecutor is *required* to present the matter to the grand jury, and those where the prosecutor is subject to a presumption in favor of presenting to the grand jury, but may decline to do so in certain limited situations.

Grand jury presentation is mandatory in three types of cases, which will be collectively referred to here as “fatal police encounters”:

1. The use of force by a law enforcement officer resulting in death;

¹ Available at: <https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2019-4.pdf>.

2. The death of a civilian during an encounter with a law enforcement officer; and
3. The death of a civilian while in the custody of law enforcement, where the death could be plausibly linked to the actions of a law enforcement officer, whether through the intentional use of force or a reckless indifference to human life.

These SOP focus only on these circumstances where grand jury presentation is mandatory. Generally speaking, OPIA investigators and prosecutors, not County Prosecutor offices, will handle cases that involve mandatory grand jury presentation, so as to comply with N.J.S.A. 52:17B-107(a)(2), which requires that investigations into fatal police encounters be handled by the Attorney General rather than County Prosecutors.²

I. Preparing for the Presentation

A. ***Meeting with family of the decedent.*** The Independent Investigator—meaning the primary law enforcement entity on the investigation, as defined in the Independent Prosecutor Directive—will provide the family of the decedent with at least the three below-described opportunities to meet, if the family so desires.

1. As soon as possible after a fatal police encounter, the family will be given the opportunity to learn about the process. This meeting will be conducted by a family liaison, an investigative staff member, a prosecutor other than the assigned investigative prosecutor, and the closest family member or family representative. The purpose of the meeting is to explain the grand jury process and advise the family that a grand jury presentation may be upcoming. This meeting will generally take place by phone.
2. Prior to the public release of video footage of the fatal police encounter when the investigation is substantially complete under Step 5 of the Independent Prosecutor Directive, the Independent Investigator shall consult with the decedent’s family or next of kin.
3. When the autopsy of the decedent is ready for review, the Independent Investigator will make it available to the decedent’s family or next of kin.

B. ***Circumstances where family meeting may not occur.*** If the family prefers to conduct all communication through an attorney representing the family, in the appropriate circumstances a meeting can take place with the family’s attorney only. The only circumstances under which the Independent Investigator may not meet with the family or a representative are:

1. If the family declines a meeting;

² In cases where OPIA is recused due to a conflict of interest, the Division of Criminal Justice handles the matter pursuant to Step 3 of the Independent Prosecutor Directive.

2. If a subject of the use of force has survived and is charged with a criminal offense;
or
 3. If the Executive Director of OPIA concludes, and the Attorney General concurs, that a meeting with the family would present a significant risk to the integrity of the ongoing investigation.
- C. **Reviewing the evidence.** Prior to presenting to a grand jury, the Independent Investigator and the assigned prosecutor will work with the investigative team to ensure that all relevant evidence is gathered and reviewed. In particular, all available video evidence and statements of eyewitnesses and officers involved in the incident must be reviewed thoroughly.
- D. **Prosecution memorandum.** After reviewing the evidence and concluding that no additional investigative steps are warranted, the assigned prosecutor will draft a memorandum for submission through the chain of command to the Executive Director of OPIA that seeks approval to present the matter to the grand jury. The memorandum must be approved by the Executive Director of OPIA prior to presentation to the grand jury, and it must contain:
1. A summary the incident and the investigation;
 2. Specific reference to critical video and any other critical evidence in a manner that aids supervising attorneys to review that evidence;
 3. A statement of the applicable law; and
 4. An analysis of the potential charges, if any, arising from the subject officer's conduct and any applicable defenses.
- E. **Charging by complaint in exceptional circumstances.** Because of the statutory mandate that these matters always be presented to a grand jury, *see* N.J.S.A. 52:17B-107(a)(2), these SOP envision that each fatal police encounter case will be presented to a grand jury without having been first charged by complaint. However, charging by complaint may be appropriate where the conduct involved is egregious and immediate action is needed in the interests of justice. Complaints should be used rarely and only with the approval of the Executive Director of OPIA. Where a matter is charged by complaint, the assigned prosecutor will present the grand jury from the outset with a proposed indictment, approved by the Executive Director, for the grand jury's consideration.

II. Legal Instructions

A. ***Initial instructions.*** Before presenting a fatal police encounter to a grand jury, prosecutors should instruct the grand jurors on all criminal statutes potentially implicated by such incidents. These instructions must include a description of the legal elements of the following:

- Criminal Homicide (N.J.S.A. 2C:11-2)
- Murder (N.J.S.A. 2C:11-3)
- Aggravated Manslaughter (N.J.S.A. 2C:11-4(a))
- Reckless Manslaughter (N.J.S.A. 2C:11-4(b))
- Death by Auto (N.J.S.A. 2C:11-5)
- Aggravated Assault (serious bodily injury, N.J.S.A. 2C:12-1(b)(1))
- Aggravated Assault (bodily injury with deadly weapon, N.J.S.A. 2C:12-1(b)(2))
- Official Misconduct (N.J.S.A. 2C:30-2)

B. ***Defenses.*** In addition, the grand jury should receive instructions on the following justification defenses:

- Use of force in self-protection (N.J.S.A. 2C:3-4)
- Use of force for the protection of other persons (N.J.S.A. 2C:3-5)
- Use of force in law enforcement (N.J.S.A. 2C:3-7)

C. ***Written instructions.*** After instructing the grand jurors on the elements of these offenses and defenses, prosecutors should provide each grand juror with a document containing the above-referenced statutory language. The grand jurors may review this document at any time during their jury service.

D. ***Re-instruction.*** If prosecutors present more than one fatal police encounter to a grand jury, the prosecutors need not re-instruct the grand jurors after each case on all potential offenses and defenses, provided that the grand jurors have access to the document summarizing their initial jury instructions. However, depending on the facts of a case, prosecutors may decide to re-instruct grand jurors on specific offenses or defenses that are particularly relevant to the case at hand. In addition, prosecutors should re-instruct the grand jury on any offenses or defenses when requested by the grand jury foreperson.

E. ***Deliberation instructions.*** The presenting attorney will instruct the grand jury as follows regarding their deliberations:

1. Where no proposed indictment is presented:
 - i. If a majority of the grand jury finds probable cause to conclude (1) that a subject-officer's conduct satisfies the elements of an offense and (2) was without legal justification, then the foreperson should advise the presenting attorney that the grand jury wishes to pursue charges.

- ii. If no such majority exists, then the result is a “no bill.”
2. Where a draft indictment is being presented:
 - i. If a majority of the grand jury finds probable cause (1) that the subject-officer’s conduct satisfies the elements of any of the offenses in the proposed indictment and (2) no legal justifications apply, then the foreperson should advise the presenting attorney that there is a “true bill.”
 - ii. The foreperson may indicate any changes to the proposed indictment requested by a majority of the grand jury.
 - iii. If no majority of the grand jury finds probable cause, then the result is a “no bill.”

III. Presentation

- A. ***Principles.*** In addition to the processes set forth in the Independent Prosecutor Directive, the following principles shall apply to the presentation of fatal police encounters to the grand jury:
 1. ***Neutrality.*** The evidence must be presented to the grand jury in a neutral, objective manner that gives no indication as to the assigned prosecutor’s personal views about whether the subject-officer’s conduct was justified or whether an indictment is warranted.
 2. ***Direct evidence.*** To the extent possible, the grand jury should be presented with direct evidence, including body-worn camera footage and videotaped statements, rather than summary witness testimony for the most relevant evidence.
 3. ***Relevant evidence.*** The grand jury need not receive every possible piece of evidence in the case, and the presentation may instead focus on the most relevant evidence, so long as the evidence shown presents a fair and accurate representation of the facts.
 4. ***Consistency.*** To the extent possible given the factual differences among fatal police encounter cases, there should be consistency between cases in the manner and breadth of presentation of the evidence.

- B. **Location.** An investigation into a fatal police encounter may be presented to either a state grand jury or a grand jury empaneled in a county other than the one where the incident occurred. Generally speaking, however, these matters will be presented to a state grand jury, typically one convened specifically for the purpose of hearing such cases.
- C. **Timing.** In order to protect the integrity of the grand jury process, fatal police encounter cases will not be presented on the last session of any grand jury because the grand jury would not be able to act on an indictment if they were to request that one be prepared.
- D. **Subject-officer testimony.** If a subject-officer is invited to the grand jury and opts to appear, standard target warnings will be issued, outside the presence of the grand jurors.
- E. **Grand juror questions.** After factual and legal presentation, the presenting attorney will ask the grand jury whether any of the members of the grand jury have any questions of law for the presenting attorney or questions of fact for any witnesses. If grand jurors have follow-up questions or requests for additional relevant evidence, every effort must be made to respond to these questions or requests. The presenting attorney will advise the grand jury that all of the exhibits will remain in the grand jury room for their examination and use during their deliberations. The presenting attorney will be available for any questions that may arise during their deliberations, but will not be present in the grand jury room for deliberations.

IV. **Post-Presentation**

- A. **Voting.** Once the grand jury has concluded its deliberations, the grand jury must vote on whether to return an indictment against any of the subject-officers.
 - 1. The grand jurors will vote using a voting sheet.
 - 2. The grand jury shall vote according to the following process:
 - i. The presenting attorney should ask the foreperson if a majority of the grand jury wishes to pursue charges, consistent with the deliberation instructions described in Section II.E.1.
 - ii. If the grand jury foreperson states that the grand jury wishes to pursue charges, the foreperson will identify on the record which charges the majority of the grand jury is requesting to pursue.
 - iii. The grand jury hearing will be adjourned until the next available session to allow for the drafting of a proposed indictment.
 - iv. The assigned prosecutor will then immediately draft an indictment that includes the charges identified by the grand jury.

- v. At the next available session, the assigned prosecutor will present the grand jury with the draft indictment, which must include all of the charges that the grand jury indicated it wished to pursue. The grand jury should inspect the draft indictment to ensure that it reflects its decision from the prior session.
 - vi. The presenting attorney should ask the foreperson if there is a “true bill,” consistent with the deliberation instructions described in Section II.E.2.
 - vii. If the foreperson places on the record that no majority of grand jurors found probable cause that the subject-officer committed a crime, then no criminal charges should be filed against the officer, and the result is a “no bill.”
 - viii. If the foreperson states that the grand jury wishes to amend the proposed indictment, the assigned prosecutor will then immediately make the alterations requested.
3. In the exceptional circumstances where a subject-officer has been charged by complaint prior to grand jury presentation, *see supra* Section I.E, the presenting attorney may forego the process outlined in subsections (i) to (v) above and instead present the grand jury with a draft indictment consistent with the charges contained in the complaint. In such cases, the grand jury shall vote according to the process outlined in subsections (vi) to (vii) above.
- B. ***Subsequent notifications.*** Once the grand jury hearing is complete, the assigned prosecutor will immediately inform the Executive Director of OPIA of the result through the chain of command. After consultation with the Executive Director, the following notifications about the outcome should be made, as soon as practicable, regardless of the grand jury’s decision:
1. The assigned prosecutor notifies the subject-officer’s defense attorney.
 2. A supervisory-level detective notifies the subject-officer’s agency.
 3. The family liaison, with support from the assigned prosecutor and investigator, notifies the decedent’s family.

V. **Presentments**

- A. ***Informing the grand jury.*** Where the grand jury opts not to originate charges, and where appropriate factual circumstances exist, the grand jury will be instructed as to its authority to return a presentment pursuant to Court Rule 3:6-9. For example, a presentment may be appropriate where, although no individual officer has committed a crime with respect to a pattern of deaths of civilians while in custody, the grand jury wishes to comment on the corruption of the relevant institution as a matter of public affairs or conditions.

- B. ***Procedure.*** In cases where a majority of the grand jury votes to issue a presentment, the assigned prosecutor should follow the procedures set forth in Rule 3:6-9. Additionally:
1. A proposed presentment will be prepared immediately following the grand jury vote to request such a presentment document.
 2. Careful further legal instruction of the grand jury may be necessary to ensure that the presentment issues in proper format for submission to the assignment judge, per Rule 3:6-9.
 3. In order to protect the integrity of the grand jury process, any fatal police encounter case that appears to present facts that may trigger a grand jury request to issue a presentment should be scheduled as early in the grand jury's term as possible.
- C. ***Press release.*** The Independent Investigator shall prepare a statement for public dissemination after any presentment that is based on the factual material within the presentment document itself.

VI. Public Announcement When Grand Jury Issues a “No-Bill”

- A. Step 9 of the Independent Prosecutor Directive states that in any instance “where the matter is presented but the grand jury declines to criminally charge any of the [subject-officers], the Independent Investigator shall prepare a statement for public dissemination, which shall comply with all rules of grand jury secrecy and be reviewed by the Independent Supervisory Reviewer prior to release.³ The statement shall include a summary of:
1. The factual findings of the investigation;
 2. The legal analysis concerning the lawfulness of the [subject-officer]'s use of force;
 3. The results of the conflicts review conducted pursuant to [Step 3] of the Directive; and
 4. An explanation that the matter was reviewed by the Independent Investigator and the Independent Supervisory Reviewer.”
- B. The presenting attorney will work through the chain of command to ensure that the communications staff has the information needed to complete this public statement promptly. See Appendix A for sample public statements.

³ The “Independent Supervisory Review” is defined in the Independent Prosecutor Directive to mean the official tasked with reviewing the factual findings, legal analysis, and charging recommendations prepared by the Independent Investigator at the conclusion of the investigation.

VII. Referrals for Administrative Review

- A. Step 10 of the Independent Prosecutor Directive states that “[a]t the conclusion of the investigation, the Independent Investigator shall determine whether any [subject-officer] should be referred to the appropriate law enforcement agency for administrative review in accordance with the Attorney General’s *Internal Affairs Policy & Procedures* [(IAPP)]. The Independent Investigator shall monitor any resulting review and take such actions as are necessary to ensure that the review is completed in a timely fashion, and that appropriate actions are taken based on the results of that review.” *See* IAPP § 6.0.1 et seq.
- B. The presenting attorney will work with a supervisory-level detective to ensure that the law enforcement agency’s professional standards personnel are provided with all appropriate investigative materials needed to conduct a thorough administrative investigation after resolution of the criminal case. The presenting attorney will sequester true grand jury material from other material to ensure grand jury secrecy is maintained in this process.

VIII. Dismissals on State’s Motion

- A. ***Indictment lacking probable cause to support criminal charges.*** In the vast majority of criminal investigations, prosecutors possess broad discretion about whether and when to ask a grand jury to return an indictment against a target of the investigation and, as a result, prosecutors typically only present a matter to a grand jury when they believe that criminal charges are warranted. However, because N.J.S.A. 52:17B-107(a)(2) requires grand jury presentment for *all* fatal police encounters, assigned prosecutors must confront the challenges associated with presenting cases even where there is little, if any, evidence to support criminal charges against the officers involved. Though unlikely, it is possible that a grand jury could vote to return an indictment against an officer in the absence of sufficient supporting evidence, thereby leaving the assigned prosecutor to prosecute a case—in violation of Rule of Professional Conduct 3.8(a)—that is not supported by probable cause. Should such circumstances ever arise, the assigned prosecutor may move to dismiss one or more counts of the indictment, against one or more defendants, provided that:
 - 1. The Executive Director of OPIA determines, in writing, that no reasonable prosecutor reviewing the evidence presented to the grand jury would conclude that probable cause exists to support the crime charged against a particular defendant in a particular count of the indictment;
 - 2. The Attorney General reviews the Executive Director’s written determination and concurs;
 - 3. The decedent’s family representative is notified of this determination and the prosecutor’s ethical obligations pursuant to Rule of Professional Conduct 3.8(a) are explained; and
 - 4. The assigned prosecutor files a motion to dismiss that (a) explains the conclusion that the relevant count is not supported by probable cause; (b) provides notice to

the decedent's family; (c) appears on the court's public docket; and (d) asks that the court stay any ruling on the motion for 14 days.

- B. ***Change in circumstances prior to trial.*** From time to time, the strength of a case will change substantially between the date of the indictment and start of trial, and it is not uncommon for prosecutors to dismiss a case prior to jury selection if the proofs unexpectedly deteriorate. This could occur, for example, if the sole eyewitness to a crime died suddenly and prosecutors lacked adequate other evidence. Should this happen in a case involving a fatal police encounter, the assigned prosecutor should consult with the Executive Director to determine whether the prosecution remains viable and notify the decedent's family representative of the change in circumstances. If the Executive Director determines that dismissal of one or more counts of the indictment is warranted, and if the Attorney General concurs, then the assigned prosecutor may move for dismissal consistent with standard practice in similar situations.

APPENDIX A



Gurbir S. Grewal, *Attorney General*

Office of Public Integrity and Accountability
Thomas J. Eicher, Director

For Immediate Release:
January 17, 2020

For Further Information Contact:
Peter Aseltine (609) 292-4791

STATE GRAND JURY RETURNS “NO BILL” IN FATAL OFFICER-INVOLVED SHOOTING IN PASSAIC

TRENTON – A state grand jury has voted not to file any criminal charges at the conclusion of its deliberations regarding the death of Randy Sanchez, 24, of Passaic, N.J., who was fatally shot by an officer of the Passaic Police Department last year. According to police, civilian witnesses, and security video, Sanchez was standing over a woman and holding a gun when he was shot.

Pursuant to a law enacted in January 2019, the fatal officer-involved shooting was investigated by the AG’s Shooting Response Task Force and presented to the state grand jury. The investigation included interviews of witnesses; collection of forensic evidence; review of security video; and autopsy results from the medical examiner. After hearing testimony and evidence from the investigation, the state grand jury concluded its deliberations today and voted “no bill,” meaning they found that the actions of the police officer who shot Sanchez were justified and no charges should be filed against him.

The shooting occurred on January 31, 2019. The investigation revealed that at approximately 11:34 p.m., the Passaic Police Department received multiple 911 calls reporting shots fired in the area of Harrison Street and Myrtle Avenue. The officer who shot Sanchez (“Officer 1”) and three other officers of the Passaic Police Department were the first officers to arrive at the scene. They were dressed in plain clothes and arrived together in a single unmarked police vehicle.

As they arrived on scene, but before exiting their vehicle, all four officers observed three men standing on Myrtle Avenue. Two of the men immediately ran from the scene, while the third man, later identified as Randy Sanchez, pointed a handgun at the officers’ arriving vehicle before running north on Myrtle Avenue in the direction of a fleeing woman. Officer 1 exited the vehicle and ran after Sanchez.

Officer 1 reported that Sanchez was still armed with a handgun as he ran after the woman, who fell near the corner of Myrtle and Harrison. As Officer 1 drew closer, he observed Sanchez pointing the handgun at the woman, who was on her knees and screaming. Officer 1 identified himself as a police officer and yelled for Sanchez to stop. Sanchez instead swung the handgun at the woman, appearing to strike her with the weapon. Officer 1 again identified himself as a police officer and ordered Sanchez to stop.

Ignoring the order, Sanchez raised the gun to shoulder level at the woman. As he did so, he also began to turn his head and body toward Officer 1. Officer 1 then fired his 9mm service pistol six times at Sanchez. Sanchez fell to the ground while still holding the handgun. Officer 1 approached Sanchez and kicked the gun, a .32-caliber revolver, from his hands.

Sanchez was transported to St. Mary's General Hospital in Passaic, where he was pronounced dead. An autopsy revealed that Sanchez died as a result of three gunshot wounds to the torso and upper left arm.

A security camera on Harrison Street captured video of the shooting. It shows Sanchez appearing to strike the woman and standing over her with the gun when Officer 1 fires. A civilian witness said he saw Sanchez standing over the woman and heard an officer say, "Stop right there or I will shoot you!"

After considering the facts, evidence, and testimony from the investigation by the Attorney General's Shooting Response Task Force, the state grand jury found the actions of Officer 1 were justified. An officer may use deadly force in New Jersey when the officer reasonably believes it is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.

A law enacted in January 2019, Senate Bill 1036, requires that the Attorney General's Office conduct investigations of a person's death that occurs during an encounter with a law enforcement officer acting in the officer's official capacity or while the decedent is in custody. The law requires that such investigations be presented to a grand jury to determine if the evidence supports the return of an indictment against the officer or officers involved.

The investigation was conducted by the Attorney General's Shooting Response Task Force in accordance with the Attorney General's Independent Prosecutor Directive, issued in 2006, strengthened in 2015, and expanded in December 2019.

The Independent Prosecutor Directive is posted on the Attorney General's website at the following link: <https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2019-4.pdf>

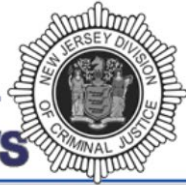
Further information about how officer-involved shootings are investigated in New Jersey under the directive is found at this link:

<http://www.nj.gov/oag/independent-prosecutor/>

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OFFICE OF THE ATTORNEY GENERAL
DIVISION OF CRIMINAL JUSTICE NEWS



NEW JERSEY DEPARTMENT OF LAW & PUBLIC SAFETY

Gurbir S. Grewal, Attorney General

**Division of Criminal Justice
Office of Public Integrity and Accountability
Thomas J. Eicher, Director**

For Immediate Release:
November 15, 2019

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**STATE GRAND JURY RETURNS “NO BILL” IN FATAL SHOOTING
INVOLVING COUNTY DETECTIVE IN VINELAND**

TRENTON – A state grand jury has voted not to file any criminal charges at the conclusion of its deliberations regarding the death of Jacob Servais, 19, of Millville, N.J., who was fatally shot by a county detective last year in Vineland, N.J. According to police and civilian witnesses, Servais drove his car at the county detective who was immediately in front of the car, causing the detective to fire his service handgun at him.

Under the Attorney General’s Independent Prosecutor Directive, the use of deadly force by the county detective was investigated by the Attorney General’s Shooting Response Team, made up of investigators from the Office of Public Integrity and Accountability and the New Jersey State Police Homicide Unit. The investigation included interviews of civilian witnesses and the law enforcement officers directly involved; collection of forensic evidence, including evidence from the scene and ballistics evidence; and autopsy results from the medical examiner. After hearing testimony and evidence from the team’s investigation, the state grand jury concluded its deliberations today and voted “no bill,” meaning they found the actions of the detective who shot Servais were justified and no charges should be filed against him.

The shooting occurred on Oct. 18, 2018, around 3:30 p.m., when Servais and a woman he was dating (hereafter “the woman”) arrived at the “Just 4 Wheels” car rental office on South Delsea Drive in Vineland to return a rented Toyota Corolla. Servais and the woman were suspects in a home invasion and attempted murder that occurred the previous day on Old Mill Road in the North Cape May section of Lower Township, in which a man was severely beaten with a rifle and robbed. Servais also was wanted on a warrant for failing to appear in court on a pending vehicular homicide charge against him.

Cape May County detectives determined that the car used in the home invasion was a rental car that was due back at the rental agency on Oct. 18, and they set up surveillance across the street from Just 4 Wheels. The woman arrived at the rental agency, along with Servais, who drove there in a gray Nissan Altima. They both parked their respective cars in the lot. The detectives drove into the parking lot, and broke out into two teams – one to detain the woman, the other to detain Servais.

The detectives positioned their vehicles to prevent each suspect vehicle from escaping. The woman was approached and taken into custody without incident. The county detective who shot Servais, Detective John Caccia, activated the emergency lights on the Chevy Tahoe he was driving and parked it in front of

the Nissan Altima occupied by Servais to block him in. Servais had backed into a parking space and there were parking blocks behind his car. Another county detective parked a Jeep behind the Tahoe.

Detective Caccia and a second detective in the Tahoe exited the SUV with weapons drawn and shouted commands for Servais to put his hands up and exit the car. Each detective was wearing a ballistic vest with police identifiers. Detective Caccia was armed with his 9mm Glock 19 service pistol, and the detective with him had a rifle. Despite repeated commands by the police to exit the car and to cease operating the car, and despite being blocked in, Servais began operating the car in an aggressive manner. According to the officers who observed the incident, Servais drove forward and rammed the Tahoe, narrowly missing Detective Caccia.

Servais then backed up into a grassy area, where his car had trouble moving due to a wooden parking block it had run over. Servais tried to get the car to move forward, revving his engine in order to drive ahead. The detectives were in front of the car with little space behind them because of the position of their police vehicles. When the car gained traction and began to move forward directly toward Detective Caccia, he fired several shots through the windshield, striking Servais multiple times in the torso. Detective Caccia stated that he fired because he believed that Servais was going to hit him with the car.

Servais then shifted into reverse, accelerated hard, and crossed over the grassy area into the adjacent parking lot, moving the wooden parking blocks from their anchors. He came to a stop in the adjacent parking lot and slumped over. Servais was treated at the scene until an ambulance arrived to take him to Inspira Medical Center in Vineland, where he died that night. The scene was closed off, and the Attorney General's Shooting Response Team was contacted and arrived to perform their investigation.

After considering the facts, evidence and testimony from the investigation by the Attorney General's Shooting Response Team, the state grand jury found the actions of Detective Caccia were justified. An officer may use deadly force in New Jersey when the officer reasonably believes it is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm.

A law enacted in January 2019 requires that the Attorney General's Office conduct investigations of a person's death that occurs during an encounter with a law enforcement officer acting in the officer's official capacity or while the decedent is in custody. This deadly force investigation preceded enactment of that law. However, it was conducted by the Attorney General's Shooting Response Team in accordance with the Independent Prosecutor Directive, issued in 2006 and strengthened in 2015, which establishes strict procedures for conducting such investigations. The directive provides that unless the undisputed facts indicate the use of force was justified under the law, the circumstances of the incident must be presented to a grand jury, composed of 23 civilians, for its independent review.

The Independent Prosecutor Directive is posted on the Attorney General's website at the following link: http://www.nj.gov/oag/dcj/agguide/directives/2006-5_SRT_OIS.pdf .

Further information about how officer-involved shootings are investigated in New Jersey under the directive is found at this link: <http://www.nj.gov/oag/independent-prosecutor/>.

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