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May 6, 2010

Chief Thomas E. Bennett
Suffolk Police Department
120 Henley Place
Suffolk, VA 23434

Re: Police Involved Shooting on Central Avenue, March 19, 2010

Dear Chief Bennett:

This matter was referred to our office for review after the Suffolk Police Department finished its investigation into the shooting death of Tedlee Hargrove ("Hargrove"). In addition to the file provided by the Suffolk Police Department, this Office gathered further information. After reviewing all of the facts available, I conclude there is insufficient evidence of criminal misconduct on the part of the involved officers to warrant the institution of criminal charges.

THE FACTS

At approximately 3:00 p.m. on March 19, 2010, several officers of the Suffolk Police Department were dispatched to a large disturbance in the 200 block of Central Avenue. Officers Langston ("Langston") and Babor ("Babor") were the first two officers to arrive on the scene. These officers were traveling in separate police cars headed northbound on Pinner Street and each made a left turn westbound onto Central Avenue. Langston was in the first car and Babor was in the second car close behind. As Langston and Babor were approaching the intersection of Pinner Street and Central Avenue, Hargrove fired a shot from the shotgun into the air according to witnesses. The officers heard the shot seconds before they turned onto Central Avenue.

Babor wore a microphone that was part of the digital video equipment on his police car. This Office has reviewed both the audio and the video from the incident. The video camera is aimed toward the front of Babor's car and there is no video record of the actual shooting. Langston and Babor turn west on to Central Avenue immediately after the gunshot is heard. Almost immediately, both officers stop their vehicles. Langston exits his vehicle first. Within seconds there is a large bang that sounds like a second shot, but is actually the sound of Babor slamming his car door after exiting it. Langston and Babor repeatedly commanded Hargrove to drop the gun and raise his hands. In a matter of seconds, the recording picks up the sounds of several gunshots as the officers fired their weapons. The remainder of the audio record consists of Babor telling other officers of the incident and irrelevant conversation. Babor states that Hargrove fired a shot as they arrived, and originally put the shotgun down, only to pick it up against the officers' commands. After Hargrove picked up the weapon, both officers fired the shots.

Langston told investigators that neither officer was able to take cover, and that they fired when Hargrove picked up the shotgun after originally appearing to place it on the floor. Langston stated he was in fear of his life and the lives of others at the time he fired his service pistol at Hargrove.

Many lay and police witnesses have been interviewed in this investigation. Although accounts varied, a number of these witnesses substantiate the accounts of Langston and Babor.

213 Central Avenue is located on the southwest corner of the intersection of Central Avenue and Pinner Street. It is a two story duplex with front porches on both floors. Hargrove lived on the second floor. His correct address was 213 ½ Central Avenue. At the time of the shooting, he was standing on the porch of his apartment. Both officers arrived by turning westbound onto Central. The driver's side of both police units faced Hargrove. The yard is very small, with no trees. After the shooting, Hargrove was found lying on the porch with his head facing north.

Hargrove suffered a perforating gunshot wound of the left upper arm. The bullet entered the bicep in the front of the arm and exited the tricep in the rear of the arm. He was flown to the trauma center at Sentara Norfolk General Hospital. He underwent surgery for a laceration to his brachial artery. Following a stormy post operative course, he died a few days later of multiple organ failure secondary to hemorrhagic shock.

Both officers carried Beretta .40 cal. service weapons. Langston fired five (5) times and Babor fired twice. The police department found seven (7) .40 cal. Winchester casings in the street and yard of the home. This brand of bullet is issued to Suffolk Police officers. Several spent .40 cal. projectiles were found in the area where Hargrove was originally standing. Crime scene technicians forwarded these items to the Department of Forensic Science for ballistic and DNA testing. No DNA was found on these projectiles, thus making it impossible to determine which officer fired the shot that struck Hargrove. Officers found Hargrove's shotgun on the ground in front of the porch.

During a search of the residence, officers located several personal papers belonging to Hargrove. One of these documents was a form from the Suffolk Probation and Parole Office indicating the Suffolk Circuit Court placed Hargrove on "First Offender" status for Possession of Cocaine. As a condition of this status, the Probation Officer forbade him from owning or possessing a firearm. Officers also discovered a handgun,

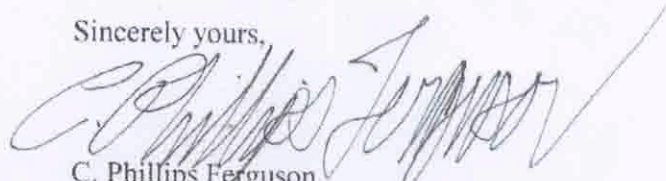
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spent and unspent shotgun shells, and a smoking device that contained cocaine residue. This device and a lighter were lying on the arm of a piece of furniture just inside the door leading to the front porch of the apartment.

Under Virginia law, a person may use deadly force when he perceives an imminent threat of death or great bodily harm to himself or others. The reasonable perspective of the officers both as to what was the impending harm and what was necessary to overcome the harm controls this issue. Both officers were responding to a call involving a disturbance. As they were arriving on the scene, Hargrove fired a shot. The officers were unable to take cover; Langston said he did not take cover because he did not want to turn his back on an armed man. Following the officers' repeated attempts to diffuse the situation, Hargrove reinitiated the confrontation by raising the shotgun. The entire incident took place in mere seconds. In my opinion, the officers acted reasonably given the facts as they appeared and evolved. Also, even if this Office were to determine that the police officers acted illegally, there is no way to determine who fired the fatal shot.

In conclusion, it is my opinion that there is insufficient evidence of criminal misconduct on the part of Officers Langston and Babor in this case. Therefore, this Office will not pursue criminal charges against the officers.

Sincerely yours,



C. Phillips Ferguson
Commonwealth's Attorney

CPF/dmw