

**October 24, 2014**

**CONCLUDING MEMORANDUM**

**Re: Shooting of Shaqur McNair**

On October 13, 2013, Special Agent in Charge for the North Carolina SBI, Janie Sutton, contacted me regarding an officer related shooting in Fayetteville. Upon learning that Mr. Shaqur McNair had been shot and injured by a Fayetteville Police Officer, I made an immediate request for an independent SBI investigation. I was joined in this request by the Fayetteville Police Department.

After a thorough review of this independent investigation and consulting with the Senior Staff at the North Carolina Attorney General's Office, I, along with my Senior Staff, have determined no criminal charges will be filed against the Law Enforcement Office for the shooting of Mr. McNair. In reaching this conclusion, we have carefully reviewed all the evidence and thoroughly researched the applicable law.

By way of summation, the investigation revealed that on October 13, 2013, there was a domestic disturbance involving Mr. McNair's brother and the mother of his brother's infant child. The domestic disturbance took place at 201 Bertram Place in Fayetteville where Mr. McNair lived with his mother, his two brothers and his sister.

While the mother of Mr. McNair's brother's infant child was visiting, there was an argument between the mother of the child and Mr. McNair's brother. During the argument, Mr. McNair's brother allegedly assaulted the mother of his child. As a result of the alleged assault, the mother of the child called her parents and 911 and reported the assault shortly after 5:00 PM.

The parents of the mother of the child arrived prior to Law Enforcement and a heated argument over the alleged assault ensued between Mr. McNair's brother and the father of the mother of the child. Mr. McNair's brother advised the SBI that the father was sitting in the front seat of his truck and was reaching under the seat. Mr. McNair's brother advised the SBI that he assumed the father was reaching for a gun and that the father's family members were screaming "no" and telling the father to stop.

Mr. McNair was present during this heated exchange and Mr. McNair's brother told the SBI that when the father was reaching under the seat of his truck Mr. McNair told him, "Bro, I am going to get it". When questioned by the SBI, the brother explained that Mr. McNair was referring to going to get a gun when he said "Bro, I am going to get it". The brother told the SBI that Mr. McNair was specifically going to get a Hi-Point 9mm handgun that the brother kept in his bedroom closet.

At this point, Fayetteville Police Officer Christopher Hunt arrives on scene and observes approximately 10 to 15 people in the roadway being disorderly. Officer Hunt advised the people were pushing each other, being loud and pointing fingers. Officer Hunt explained to the SBI that his arrival on scene did not do anything to stop the disorderly conduct of the crowd.

Officer Hunt observed the mother of the infant child had injuries and she advised him that Mr. McNair's brother had assaulted her. Officer Hunt also describes that the injured female's father was being very aggressive verbally and was pushing Mr. McNair's brother.

Officer Hunt explained to Mr. McNair's brother he was detaining not arresting him until he completed his investigation. Officer Hunt handcuffed Mr. McNair's brother who was compliant. While Officer Hunt walked Mr. McNair's brother to his police car, the injured female's father continued to follow and act aggressive toward Mr. McNair's brother bumping him and Officer Hunt.

Officer Hunt explains that he would have had Mr. McNair's brother in his police car within seconds of arriving on scene but the rowdy crowd enclosed around him and blocked him from placing Mr. McNair's brother in his police car. Mr. McNair's mother put herself between Officer Hunt and the back passenger door of his police car. Officer Hunt recalled telling Mr. McNair's mother she needed to back up. Mr. McNair's mother allegedly started pulling on Officer Hunt's raised arm as he tried to make his way through the crowd and to the back passenger's seat of the police car. Mr. McNair's mother allegedly continued to pull on Officer Hunt's right arm and scratched him.

Officer Hunt then describes he felt a strong pull on his arm and that Mr. McNair's mother then allegedly struck him in the right side of his face with a closed fist using her left hand. After Mr. McNair's mother allegedly assaulted Officer Hunt, he called for backup units to "step it up". Officer Hunt had previously called for backup units within seconds of arriving on the volatile scene.

After Mr. McNair's mother allegedly struck him, Officer Hunt grabbed the mother with his right hand while keeping hold of Mr. McNair's brother with his left hand. Mr. McNair's mother then started to run away and Officer Hunt explained that he let go of the handcuffed brother and chased after Mr. McNair's mother because she had allegedly assaulted him and he did not know what she was about to do.

Officer Hunt described that Mr. McNair's mother ran to the adjoining property and fell to the grass on her own. After she fell to the ground, Officer Hunt remained standing up but bent over and tried to handcuff her. Officer Hunt recalled that she was on her stomach as a result of her falling down and that she was resisting being handcuffed and was not compliant.

Officer Hunt recalled that the rowdy crowd remained at his police car in the adjoining yard and that Mr. McNair's brother was still not secured in his police car as he tried to secure Mr. McNair's mother.

As Officer Hunt continued to try and secure Mr. McNair's mother, he observed Mr. McNair begin to approach him. Officer Hunt recalled that Mr. McNair was approaching from up the street and not from where the crowd was gathered around his police car in the adjoining yard.

Mr. McNair was walking toward Officer Hunt at a steady pace while continually staring at Officer Hunt as he approached. Officer Hunt recalled Mr. McNair was shaking his head left to right and saying, "not today, this ain't going to happen today". Officer Hunt advised that as Mr. McNair was repeating these words Mr. McNair was also tapping in the middle of his waist band. Officer Hunt observed that as Mr. McNair got closer to his position, Mr. McNair was tapping his waist area with more frequency. Mr. McNair then went from tapping his waist area to rubbing his waist area in a circular motion. The entire time Mr. McNair was approaching, Officer Hunt describes that Mr. McNair had his hands in his waist area and went from tapping to rubbing his waist area in a circular motion.

Officer Hunt believed, based on Mr. McNair's actions, that he had a gun. When Mr. McNair got within approximately 15 feet of Officer Hunt, he changed directions like he was going to get behind Officer Hunt. Once Mr. McNair changed directions and Officer Hunt thought Mr. McNair had a gun based on his continuous tapping and rubbing of his waistband, Officer Hunt stood up and drew his handgun with his right hand, leaving Mr. McNair's mother without being handcuffed on the ground. Officer Hunt's handgun was his Fayetteville Police Department issued Glock 22.

Officer Hunt gave a verbal command to Mr. McNair for him to show Officer Hunt his hands, but Mr. McNair kept walking towards Officer Hunt and continued to say, "not today". Officer Hunt advised he backed up approximately 2 or 3 feet to give himself some distance between he and the approaching Mr. McNair. Mr. McNair failed to comply with Officer Hunt's commands and Officer Hunt advised at this point he had his handgun pointed at the approaching Mr. McNair but did not have his finger on the trigger.

The approaching Mr. McNair made a move to his shirt with his left hand and Officer Hunt recalled telling Mr. McNair "Don't do it". Mr. McNair then lifted his shirt with his left hand and Officer Hunt saw the handle of a black gun in Mr. McNair's waistband. Mr. McNair then pulled the gun up and out with his right hand. The handgun cleared Mr. McNair's waistband. When Mr. McNair pulled the gun up and out of his waistband with his right hand, Officer Hunt fired four rounds at Mr. McNair. Officer Hunt advised that after he fired the first shot at Mr. McNair he did not fall. Officer Hunt fired his handgun 3 more times at Mr. McNair. Officer Hunt advised he fired his handgun at Mr. McNair until he fell and was no longer a threat to return fire. Officer Hunt advised that he was approximately ten feet away from Mr. McNair when he fired his weapon after Mr. McNair pulled the gun out of his waistband. Officer Hunt advised Mr. McNair was on the driveway when he fell as a result of being shot. Mr. McNair was lying on his left side with his right hand under him. The handgun Mr. McNair had pulled out of his waistband was a couple of inches from Mr. McNair's head. Officer Hunt advised that he kicked the gun away from Mr. McNair but that the gun remained on the concrete driveway.

Officer Hunt then secured Mr. McNair and told the crowd that was still at his police car in the adjoining yard to get onto the ground and put their hands out for their own safety as well as his own.

Officer Hunt advised that he called on the radio that shots had been fired and for emergency medical personnel to come to the scene. Back up units from the Fayetteville Police Department arrived on the scene within seconds of the shots being fired.

When back up units arrived, they went to Mr. McNair, identified his injuries and began life saving measures. While attending to Mr. McNair, the officers also noted a Hi-Point 9 mm with the safety off on the concrete driveway a few feet from Mr. McNair's head.

Emergency personnel also arrived on scene and assumed responsibility for the treatment of Mr. McNair. Mr. McNair was transported by ambulance to Cape Fear Valley Medical Center.

The crime scene was worked by a crime scene specialist with the North Carolina SBI. There were several items of evidence seized from the crime scene search and processing to include: (4) fired cartridges which were fired by Officer Hunt's Fayetteville Police Department issued Glock 22 and a black Hi-Point 9 mm seized from the concrete driveway area a few feet from Mr. McNair's head. It is worthy of note that the black Hi-Point 9 mm is the exact description that Mr. McNair's brother gave of the gun Mr. McNair had gone to retrieve prior to law enforcement arriving on scene. The black Hi-Point 9 mm found a few feet from Mr. McNair on the concrete driveway was a stolen firearm.

Several civilian witnesses were interviewed regarding the events surrounding the shooting. As previously discussed, Mr. McNair's brother told the SBI that Mr. McNair went to the family home to get a Hi-Point 9 mm handgun because they thought the father, who was threatening Mr. McNair's brother, had a gun. Mr. McNair's brother went on to explain to the SBI that Mr. McNair came out of the house with the gun which was kept in the brother's room in the closet. Mr. McNair's brother told the SBI that Mr. McNair had the gun in his front waistband with a blue hoodie type shirt pulled over the gun. He described to the SBI that he could not see the gun until after Mr. McNair fell, but he knew by his actions of pulling down on the shirt that he had a gun. Mr. McNair's brother went on to say that Mr. McNair did not comply with Officer Hunt's commands.

Another civilian witness describes that immediately after Officer Hunt shot Mr. McNair, Officer Hunt kicked a gun that was lying by Mr. McNair. This account of the events is consistent with Officer Hunt's statement that he kicked Mr. McNair's gun a few feet away, for safety, but it remained on the concrete driveway.

There was also a civilian witness that described that Mr. McNair left while the father was arguing with Mr. McNair's brother. This account is consistent with Mr. McNair's brother stating to the SBI that Mr. McNair said he was going to get the Hi-Point 9mm when the father was threatening Mr. McNair's brother. The witness also said Mr. McNair did not comply with Officer Hunt's commands. This same civilian witness also describes seeing a black handgun on the concrete by Mr. McNair immediately after he was shot.

A civilian witness also describes seeing Mr. McNair pulling his hands upwards from inside his waistband just prior to being shot. Multiple witnesses reported that Mr. McNair did not comply with Officer Hunt's commands. No witnesses interviewed by the SBI reported that Mr. McNair had his hands raised or was following Officer Hunt's instruction in any manner.

As previously noted, Fayetteville Police Department back up units arrived on scene and rushed to Mr. McNair within seconds of the shooting. Each of these officers noted seeing a Hi-Point 9 mm handgun on the concrete driveway a few feet from Mr. McNair's head. Once the Hi-Point 9 mm was observed by law enforcement on the concrete driveway a few feet from Mr. McNair's head just seconds after the shooting, continuous security was provided for the weapon so it could be collected as evidence by the SBI.

Based on the accounts of multiple civilian witnesses and multiple law enforcement witnesses, the independent SBI investigation has conclusively established that Mr. McNair did possess the Hi-Point 9mm handgun collected a few feet from him at the scene.

Mr. McNair was treated for his injuries at Cape Fear Valley Medical Center but unfortunately life saving measures were not successful and he died on October 13, 2013. The Chief Medical Examiner for the State of North Carolina, Dr. Deborah Radisch, performed the autopsy of Mr. McNair. Dr. Radisch advised Mr. McNair suffered (3) gunshot wounds with the gunshot wound to Mr. McNair's abdomen being the injury that caused his death.

Officers are routinely trained and advised that deadly force is a force of last resort. Officer Hunt stated he fired his weapon only after telling Mr. McNair "Don't do it" and after Mr. McNair pulled the gun up and out of his waistband with his right hand. Officer Hunt felt it was necessary to use deadly force on Mr. McNair because he felt Mr. McNair was going to kill him based on Mr. McNair's words and actions, failure to follow commands, and most importantly Mr. McNair pulling his gun out of his waistband. It is our conclusion that Officer Hunt fired his weapon in self-defense and as a matter of last resort.

The law authorizes an Officer to take pre-emptive action and use deadly force to prevent death or serious injury to himself, provided that his threat assessment is reasonably made. As our Supreme Court has observed, the calculus of reasonableness must allow for the fact the Police Officers are often forced to make split-second judgments in circumstances that are tense, uncertain and rapidly evolving.

The Officer's decision to use deadly force was a lawful and measured response to the situation that he confronted and necessary for his own protection. While this incident is undeniably a tragedy for everyone involved, the investigation has conclusively determined that the Officer acted consistently with his training and experience.

After consulting with the Senior Staff at the North Carolina Attorney General's Office, I, along with my Senior Staff, have determined that no criminal charges in this matter are warranted under the law and under the circumstances as revealed by the independent SBI investigation.

Following the completion of the independent SBI investigation, I and my Senior Staff personally met with the attorney representing Mr. McNair's family. During our meeting, I discussed the facts, law, and ultimate conclusion in this incident. I also provided the attorney representing Mr. McNair's family the opportunity to review the investigative file in this matter.