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Memorandum

TO: CRIMINAL JUSTICE COMMISSION

FROM: KEVIN T. KANE 
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DATE: NOVEMBER 27, 2019

SUBJECT: UNTIMELY REPORTS OF INVESTIGATIONS OF THE USE OF DEADLY FORCE BY POLICE OFFICERS RESULTING IN DEATHS IN THE JUDICIAL DISTRICT OF HARTFORD

Since at least 1988, the Division of Criminal Justice has been required by C.G.S. Section 51-277a to conduct an investigation into the use of deadly force by police officers resulting in deaths and, upon conclusion of the investigation, to file a report. The purpose of this investigation is to determine whether the use of force was justified under Section 53a-22 of the General Statutes. It is a criminal investigation, not an administrative investigation or a review of police policies and procedures.

Until 2015, those investigations normally were conducted by the State's Attorney in the Judicial District in which the incident occurred. In early 2015, the Division enacted a policy and, subsequently the General Assembly enacted a statute, requiring that the Chief State's Attorney designate a State's Attorney from another Judicial District or a Special Assistant State's Attorney to conduct such an investigation and file a report.

On October 25, 2019, *The Hartford Courant* reported that the State's Attorney for the Judicial District of Hartford has not filed reports for five investigations. Four of the incidents that are the subject of those investigations occurred between March 3, 2008, and July 11, 2012, and the reports are untimely. The fifth incident which occurred in Wethersfield on April 20, 2019, is being reviewed actively and it is not untimely. The officer involved has been on administrative leave and there is considerable public interest so it is not without urgency.

The remaining four incidents are summarized below:

1) Joseph Bak

On March 3, 2008, two Connecticut State Troopers attempted to arrest Joseph Bak on Broad Street in Hartford. The Connecticut State Police Eastern District

Major Crime Squad investigated and filed some reports on March 17, 2008. Additional reports were filed on April 28, 2008. State's Attorney Gail P. Hardy, who had gone to the scene on March 3, 2008, and spoke to investigators, concluded after reviewing the reports given to her on March 17, 2008, and informed the State Police that, in her opinion, the shooting of Joseph Bak was justified under Section 53a-22 and she would not charge the involved officers. The troopers were continued on full duty. State's Attorney Hardy began the process of writing her report, but stopped because of other business which was urgent at the time.

I spoke with Attorney C. Michael Budlong who said that he represented Joseph Bak's family in a civil suit in the United States District Court seeking damages as a result of the incident. Attorney Budlong said that it ended with a defendant's verdict. Although the report had not been completed in spite of letters he said he wrote, there is no indication that he did not have access by way of discovery to the police reports, statements and other evidence necessary to pursue the family's claim.

2) Taurean Wilson

On January 10, 2009, East Hartford Police Officers responded to a 911 call and after a confrontation, shot Taurean Wilson, who died as a result. The Connecticut State Police Central District Major Crime Squad investigated and submitted reports of the investigation on October 2, 2009. State's Attorney Hardy reviewed the reports and concluded that the use of force was justified under Section 53a-22. She met with Taurean Wilson's father and the family's attorney, David Poirot, informing them of her conclusions. State's Attorney Hardy started drafting the report, but did not complete it. East Hartford Police Department reports that one of the officers involved was placed on administrative leave, the other was injured during the incident. The uninjured officer returned to full duty on January 29, 2009, and the injured officer returned from injured status to full duty when he recovered on July 19, 2009.

3) Edmanual Reyes

On May 19, 2011, Manchester Police and the Capital Region Emergency Services Team composed of special tactics officers responded to a 911 call reporting a "disturbed man with a gun" at the doorway of a house in which there was a woman and two children. The man, Edmanual Reyes, after firing numerous shots, one of which struck an officer, was shot by a Glastonbury Police Officer. State's Attorney Hardy went to the scene on May 19, 2011. The Glastonbury Police Officer was placed on temporary administrative leave for approximately one week while the incident was being reviewed internally and the officer was cleared to return to full duty.

The Connecticut State Police Eastern District Major Crime Squad conducted the investigation and submitted the casebooks to State's Attorney Hardy's office on April 17, 2013. State's Attorney Hardy met with Mr. Reyes' wife on two occasions and State's Attorney Hardy informed her that she had concluded that the officer's use of force was justified and he would not be prosecuted. On February 27, 2014, State's Attorney Hardy arranged to have some of Mr. Reyes' property that had been held by the police returned to Ms. Reyes.

4) Ernesto Morales

On July 11, 2012, on Wadsworth Street in Hartford, four Hartford Police Officers approached a vehicle during an investigation of suspected criminal activity. The driver of the vehicle accelerated, striking a police cruiser and continued attempting to go around the cruiser accelerating in the direction of two of the officers when the driver, Ernesto Morales, was shot and killed. State's Attorney Hardy went to the scene on July 11, 2012. The investigation was conducted by the Connecticut State Police Central District Major Crime Squad and the casebooks were submitted to State's Attorney Hardy in March of 2014. The family of Ernesto Morales retained Attorney Michael Reilly and on March 11, 2015, copies of all reports were provided to Attorney Reilly. State's Attorney Hardy orally informed the Hartford Police Department Chief of Police that the use of force was justified.

State's Attorney Hardy has completed several investigations and written reports before and after these four investigations and has done them well. It is unclear why she did not complete these reports even though it may be understandable for her to have paused to handle something more urgent at a given moment. It is noteworthy that the Hartford Judicial District is one of, if not the busiest in the state, both in caseload and in the number of incidents of use of deadly force requiring the issuance of a report pursuant to Section 51-277a. State's Attorney Hardy has been responsible for ten such incidents since she became State's Attorney in 2007. This is roughly twice as many as any other State's Attorney since she took office.

It appears that State's Attorney Hardy's decision that the use of force was justified in each case was appropriate, but the process was not officially completed and officers who were cleared of criminal liability, the police departments that employed them and the public for whom we all work deserved a timely report and explanation. State's Attorney Hardy is working to complete the reports.

State's Attorney Hardy is honest and conscientious. While I feel strongly that the Commission should not consider as an option removal from office, I recommend that the Commission invite State's Attorney Hardy to discuss this matter in an executive session during an upcoming meeting so that it hear from her what remedial steps are being taken and to consider whether discipline such as a period of suspension or oral or written reprimand are in order.

CASES REQUIRING REPORTS PURSUANT TO C.G.S. §51-277a

<u>Incident Date</u>	<u>Town/City</u>	<u>Victim</u>	<u>Report Submitted</u>
02/02/2008	E. Hartford	Vincente Bermudez	08/31/2009
03/03/2008	Hartford	Joseph Bak	Pending
01/09/2009	E. Hartford	Taurean Wilson	Pending
05/19/2011	Manchester	Edmanuel Reyes	Pending
07/11/2012	Hartford	Ernesto Morales	Pending
05/15/2013	Hartford	Jesus Espinoza	05/13/2015
12/13/2013	Farmington	Gregory Bendas	06/26/2017
04/13/2014	E. Hartford	Jose Maldonado	06/28/2017
06/09/2015	Hartford	Tyrinde Mason-Thompson	04/20/2016
04/20/2019	Wethersfield	Anthony Vega Cruz	Pending

All the completed reports are available on the Division of Criminal Justice's website.