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DAUPHIN COUNTY
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IN RE: : IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA
:
: NO. CP-22-MD-1266-2013
THE EIGHTH DAUPHIN COUNTY :
INVESTIGATING GRAND JURY : **NOTICE NUMBER: 08-2013-11**

ORDER OF COURT

AND NOW, this 13th day of *October*, 2014;

IT IS HEREBY ORDERED that Report Number 2 is accepted and shall be filed as a public record with the Dauphin County Clerk of Court pursuant to 42 Pa. C.S. §4552. The Report may be inspected by any person. After a review of the record, the Court makes a finding that the Report is based upon facts received in the course of the various investigations authorized by this Court and is supported by a preponderance of the evidence. The Clerk of Court is directed to distribute a copy of the Report along with this Order to each on the individuals listed below.

BY THE COURT


TODD A. HOOVER P.J.
SUPERVISING JUDGE

DISTRIBUTION:
Francis T. Chardo, First Assistant District Attorney (2)
Clerk of Courts



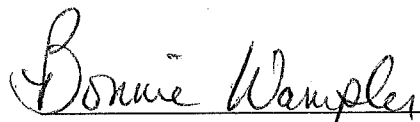
**THE EIGHTH DAUPHIN COUNTY
INVESTIGATING GRAND JURY**

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: DAUPHIN COUNTY, PENNSYLVANIA
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: NO. CP-22-MD-1266-2013
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TO THE HONORABLE TODD A. HOOVER, SUPERVISING JUDGE:

REPORT NO. 2

We, the Eighth Dauphin County Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We make the following findings of fact upon proof by a preponderance of the evidence and issue these recommendations for legislative, executive or administrative action in the public interest. So finding with no fewer than twelve concurring, we do hereby make this Report to the Court.



Foreman – Eighth Dauphin County
Investigating Grand Jury

DATED: 10/9, 2014

INTRODUCTION

We, the members of the Eighth Dauphin County Investigating Grand Jury, having received evidence pertaining to matters occurring in Dauphin County, Pennsylvania, pursuant to Notice of Submission of Investigation 08-2013-11, do hereby make the following findings of fact and recommendations.

FINDINGS OF FACT

On June 1, 2014, the Pennsylvania State Police received a call regarding a hit-and-run incident in which a vehicle had damaged a mailbox and left the scene. Trooper Michael Trotta responded to the call. The victim indicated that the striking vehicle entered the property at 7617 Green Hill Road, West Hanover Township, Dauphin County, the residence of David E. Ricker and his family. Trooper Trotta was alone upon arrival at the residence. A large fence with a mechanized gate at the driveway surrounded the Ricker residence. Trooper Trotta was in an unmarked PSP vehicle and wore a PSP uniform.

Trooper Trotta noticed an intercom on the column of the gate. He used a button on the intercom to contact the residents. After a few minutes, Jennifer Lynn Ricker, the wife of David E. Ricker, drove a large sport utility vehicle to the top of the hill overlooking the gate. Mrs. Ricker walked several hundred feet from the truck to the gate. At the gate, as depicted on the video footage from Trooper Trotta's car, Mrs. Ricker and Trooper Trotta spoke at the gate. On the video, Mrs. Ricker appeared calm and cooperative at the gate. After speaking to Trooper Trotta for 3 minutes and 30 seconds, Mrs. Ricker opened the gate and stepped aside, allowing Trooper Trotta to drive onto the property. As Trooper Trotta entered, Mrs. Ricker seemed unconcerned

and casually walked alongside the police vehicle.

Trooper Trotta drove the police car up the driveway and parked within sight of the house. David Ricker walked towards the police car accompanied by two dogs, one of them much larger than the other. Trooper Trotta indicated that David Ricker was belligerent and using profanity when he approached the police car. On the dash cam video, David Ricker appeared to be agitated and yelling at Trooper Trotta. David Ricker was accompanied by a large German Shephard and Trooper Trotta heard Ricker giving commands to the dog in a foreign tongue. Trooper Trotta was concerned that these were commands to attack him. Subsequent investigation showed that the dog receives his commands in the Czech language.

While still inside his car, Trooper Trotta saw David Ricker strike his wife. This event was outside the view of the dash camera. In her testimony, Mrs. Ricker denied that her husband struck her. David Ricker pushed on the driver's side door of the police car and told Trooper Trotta "to get the fuck off my property." Trooper Trotta tried to fire the taser but was unsuccessful. Subsequent testing showed that it had malfunctioned.

Trooper Trotta then observed David Ricker pull a small pistol from his waist. David Ricker told Trooper Trotta that he has a permit to carry and to "get the fuck off my property." David Ricker had the pistol pointed in the air. Trooper Trotta, with his handgun pointed at David Ricker, repeatedly told Ricker to drop the gun, but he did not do so. Jennifer Ricker was in the line of fire so Trooper Trotta did not use deadly force as David Ricker brandished the pistol and refused to drop it.

At this point one of David Ricker's minor daughters came out of the garage. Trooper Trotta made contact with the girl and directed her to go down the driveway

towards her mother's car. Trooper Dana Gingrich arrived at this point. Troopers Trotta and Gingrich attempted to cover the entire home such that the gunman was contained within. From the opposite side of the house, Trooper Trotta heard an exchange of shouts between David Ricker and Trooper Gingrich in the area of the garage. Trooper Gingrich was ordering Ricker to come out and Ricker was yelling, "get the fuck off my property." In response, Trooper Trotta went to the garage side of the house.

Upon coming to the garage side of the house, Trooper Trotta saw David Ricker within the garage through an open garage door. Ricker was holding an assault rifle by the pistol grip and was peeking around the edge of the garage door in the direction of Trooper Gingrich. Trooper Trotta concluded that Ricker was preparing to shoot Trooper Gingrich. At that point, Trooper Trotta pointed his gun at Ricker and yelled, "drop the gun now". In response, David Ricker raised the rifle and pointed the muzzle in the direction of Trooper Trotta. At that point, Trooper Trotta fired at Ricker striking him. David Ricker was no longer in Trooper Trotta's view at that point.

Trooper Trotta, with his gun raised, began to move in a semicircle to try to get a view of Ricker. Ricker was on the ground within the garage and shot Trooper Trotta four times with the rifle. Trooper Trotta suffered serious bodily injury as a result of being shot by Ricker. After Trooper Trotta was shot, other members of the Pennsylvania State Police were able to extract him from the property and take him to the hospital. David Ricker refused to surrender and discharged additional shots from within the property.

After the PSP Special Emergency Response Team assembled, they entered the property in an armored vehicle and took Ricker into custody. The police then

transported him to the hospital for treatment of two gunshot wounds. The Grand Jury reviewed the medical records of David Ricker. The gunshot wounds were to Ricker's left abdomen and left buttocks.

The police searched the home pursuant to a search warrant and recovered scores of firearms as well as marijuana belonging to David Ricker. Testing of David Ricker's blood showed a blood alcohol content of .07% as well as Diazepam, Nordiazepam, and Midazolam.

The Grand Jury did not have the benefit of David Ricker's version of events. Ricker faces pending charges arising out of the incident on June 1, 2014, and is represented by counsel. The Dauphin County District Attorney's Office contacted Mr. Ricker's attorney, William C. Costopoulos, and offered an opportunity for Mr. Ricker to testify regarding the events on June 1, 2014. Through counsel, Mr. Ricker declined to testify before the Grand Jury.

The Grand Jury also did not have the benefit of Jennifer Ricker's version of events. She testified about preliminary matters. She denied ever being the victim of domestic violence at the hands of her husband. Invoking spousal privilege, she refused to testify about the events that immediately surrounded the wounding of Trooper Trotta and her husband.

Because the Grand Jury did not have the benefit of David Ricker's testimony, the Grand Jury received the testimony of David Ricker's brother, Robert Ricker, who had spoken to David Ricker about the incident. David Ricker asked his brother why the police shot him. David Ricker indicated to his brother that prior to entering his house he indicated to Trooper Trotta that he had a license to carry a concealed weapon and lifted

his shirt to display the firearm. David Ricker told his brother that he subsequently retreated into the house. According to his brother, David Ricker traveled through the length of the house into his bedroom, opened the locked gun safe and took out an assault rifle.

Trooper Trotta entered the Ricker property through a gate after Mrs. Ricker caused the mechanical gate to open. The grand jury received differing versions of events concerning the opening of the gate. Trooper Trotta indicated that Mrs. Ricker opened the gate without any coercion. Mrs. Ricker indicated that she felt coerced to open the gate. The interaction between Trooper Trotta and Mrs. Ricker was captured by video recording on the dash camera in the PSP vehicle. There was no sound recording of the interaction.

Nationwide, there is a trend towards allowing audio and video recording of police interaction with citizens. **See** "Today's Police Put on a Gun and a Camera", NEW YORK TIMES, September 27, 2014. The availability of an audio recording of the interaction between Trooper Trotta and Mrs. Ricker would establish what was communicated between the two of them. Such evidence would have been a valuable aid in this investigation. An amendment to the Wiretapping and Electronic Surveillance Control Act that became effective on April 5, 2014, would have permitted audio recording of the interaction at the gate between Trooper Trotta and Mrs. Ricker. The Pennsylvania State Police are currently in the process of implementing procedures and acquiring equipment in light of this very recent legislative change.

The Grand Jury had the benefit of background information on both Trooper Michael Trotta and David Ricker. The Grand Jury had the benefit of records from

Trooper Trotta's personnel file including unfounded allegations made against him prior to June 1, 2014. Based on the all the information received, the Grand Jury concludes that Trooper Trotta's use of deadly force on June 1, 2014, was justified under 18 Pa. C.S. Ch. 5.

RECOMMENDATIONS

Based on the above findings of fact, the Eighth Dauphin County Investigating Grand Jury makes the following recommendations for legislative, executive, or administrative action in the public interest:

1. The Grand Jury recommends that no criminal charges be filed against Trooper Michael Trotta on the basis that the shooting of David Ricker was justified under 18 Pa.C.S. §508.
2. The Grand Jury recommends that the Pennsylvania State Police and all municipal police departments with the resources to do so equip their uniformed officers with audio and visual recording devices to record interactions with citizens as permitted by 18 Pa. C.S. §5704(16)(as amended by Act 9 of 2014, effective April 5, 2014). Moreover, the Grand Jury recommends that those police agencies using these recording devices employ them when permitted during any interaction that may result in a criminal prosecution.
3. The Grand Jury recommends automatic retention of such audio and video recordings for at least 45 days. In addition, at the request of either the police officer or a citizen, the recording should be maintained for two years. In that way, the recordings would be available in any subsequent civil or criminal proceeding.