Pursuant to the request by District Attorney Jeff Cruden to the Administrative Office of the Courts to appoint a special prosecutor to review this matter and after the case was assigned to the undersigned as special prosecutor, our office has reviewed the investigation surrounding the shooting death of Sylvester Demetrius Selby on October 3, 20023 in Dare County. The North Carolina State Bureau of Investigation investigated this case, case number 2023-02676. The purpose of this review is to determine if the actions of Dare County Sheriff's Deputy

Ind his use of deadly force on Sylvester Demetrius Selby were consistent with his legal authority as a law enforcement officer or if such actions were unlawful.

Law Enforcement Use of Force:

North Carolina General Statute section 15A-401 (d)(2)(a) is the relevant section of the law that defines when a law enforcement officer is justified in using deadly physical force upon another person to defend themselves or others:

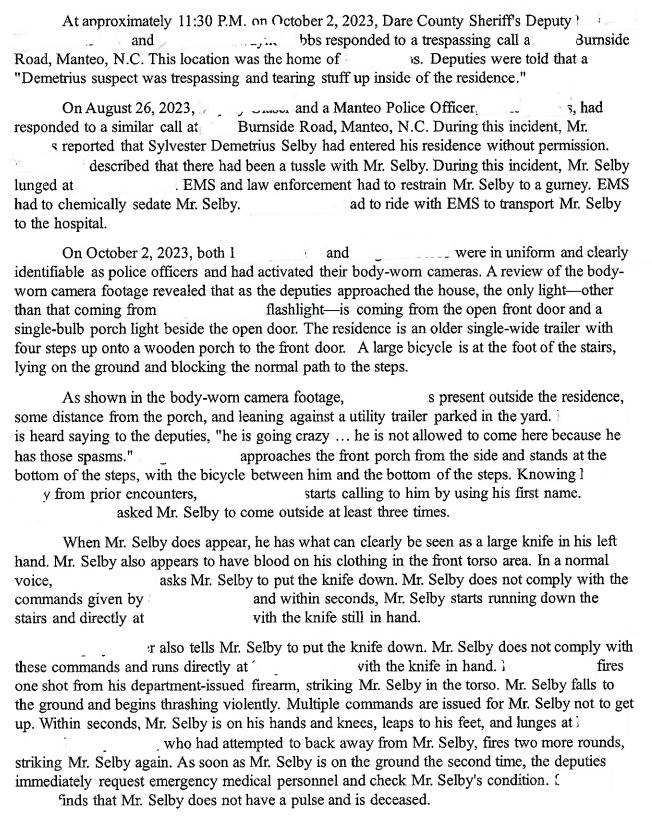
A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

The North Carolina Supreme Court has made clear that "Subdivision (d)(2) was designed solely to codify and clarify those situations in which a police officer may use deadly force without fear of incurring criminal or civil liability." *State v. Irick*, 291 N.C. 480, 231 S.E.2d 833 (1977).

Additional Legal standards

The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in *State v. Norris*, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appears to a person that it is necessary to kill in order to save himself or others from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. *Id* at 529.



interview with the SBI disclosed:

saved his life that night. He thought he was in imminent deadly danger and was going to get stabbed. indicated he was not able to draw his firearm due to the trailer creating a tripping hazard while he was attempting to put distance between himself and Selby.

s interview with the SBI disclosed:

called for Selby to exit the residence. Selby exited but had a knife in his Selby was told to drop left hand. He was about ten to twelve feet from \ the knife by both deputies. Selby quickly came off the porch towards & still holding the knife and within feet of thought was in imminent deadly danger and fired once at Selby. Selby went down to the ground but continued crawling toward the deputies. Deputies retreated towards the road, and Selby continued towards them. Selby was within feet of. when he lunged from a couching-like position at thought Selby was r), so he fired two more times from a close still armed and a danger to himself distance.

said after his first shot, when Selby continued to advance on him, he perceived Selby was still armed and a deadly threat. I said Selby came out armed with a knife, refused to follow commands to drop the knife, and quickly closed distance on sand himself as the reasons why he used deadly force. He said he was protecting and himself.

No other persons except Mr. Selby, were present during the incident. During an autopsy performed at the Medical Examiner's Office at ECU Health Medical Center, Greenville, NC, it was discovered that Mr. Selby also had a knife wound to his chest that contributed to his death.

Analysis

Based on a thorough review of the investigation conducted by the State Bureau of Investigation—including extensive interviews of all witnesses and a review of both Sergeant s' and s' body-worn camera footage—it appears that the force used by was authorized by G.S. 15A-401 (d)(2)(a) to defend himself and from what a reasonable officer would have believed to be the use of imminent use of deadly physical force by Mr. Selby. In addition, the use of deadly force appears reasonable under the circumstances, and as justified under North Carolina law in that it appeared that it was necessary to kill in order to save himself or others from death or great bodily harm.

This shooting was indisputably tragic, but it was not unlawful. Consequently, our office will not be seeking charges related to the death of Sylvester Demetrius Selby.