State of New York

Executive Chamber

No. 147

EXECUTIVE ORDER

A SPECIAL PROSECUTOR TO INVESTIGATE AND PROSECUTE MATTERS RELATING TO THE DEATHS OF CIVILIANS CAUSED BY LAW ENFORCEMENT OFFICERS

WHEREAS, the Constitution of the State of New York obliges the Governor to take care that the laws of New York are faithfully executed; and

WHEREAS, I have solemnly sworn, pursuant to Article 13, Section 1 of the Constitution, to support the Constitution and faithfully discharge the duties of the office of Governor; and

WHEREAS, there have been recent incidents involving the deaths of unarmed civilians that have challenged the public's confidence and trust in our system of criminal justice; and

WHEREAS, public concerns have been raised that such incidents cannot be prosecuted at the local level without conflict or bias, or the public perception of conflict or bias; and

WHEREAS, it is necessary to ensure that a full, reasoned, and independent investigation and prosecution of any such incident is conducted without conflict or bias, or the perception of conflict or bias; and

WHEREAS, the foregoing compels me to conclude that my constitutional obligations provide that in cases where an issue of a real or perceived conflict of interest exists, and to ensure full confidence in our system of criminal justice, a special prosecutor should be appointed with respect to such incidents. Such appointment of a special prosecutor will supersede in all ways the authority and jurisdiction of a county district attorney to manage, interpret, prosecute or inquire about such incidents; and

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, and particularly by subdivision 2 of section 63 of the Executive Law, hereby require the Attorney General (hereinafter, the "special prosecutor") to investigate, and if warranted, prosecute certain matters involving the death of an unarmed civilian, whether in custody or not, caused by a law enforcement officer, as listed in subdivision 34 of section 1.20 of the Criminal Procedure Law. The special prosecutor may also investigate and prosecute in such instances where, in his opinion, there is a significant question as to whether the civilian was armed and dangerous at the time of his or her death;

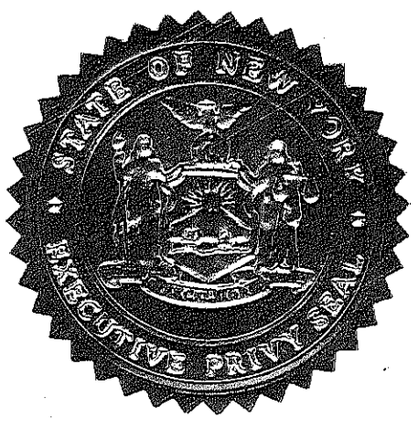
FURTHER, for any matter covered herein, the special prosecutor shall have the powers and duties specified in subdivisions 2 and 8 of section 63 of the Executive Law for purposes of this Order, and shall possess and exercise all the prosecutorial powers necessary to investigate, and if warranted, prosecute the incident. The special prosecutor's jurisdiction will displace and supersede the jurisdiction of the county district attorney where the incident occurred; and such county district attorney shall have only the powers and duties designated to him or her by the special prosecutor as specified in subdivision 2 of section 63 of the Executive Law;

FURTHER, for any matter covered herein, the special prosecutor shall conduct a full, reasoned, and independent investigation including, but not limited to, (i) gathering and analyzing evidence, (ii) conducting witness interviews, and (iii) reviewing investigative reports, scientific reports, and audio and video recordings;

FURTHER, for any matter covered herein, the special prosecutor shall, (i) attend in person, a term or terms of the County or Supreme Court to be held in and for the County of such appropriate jurisdiction consistent with this Order, (ii) appear in person before any grand jury drawn for any term(s) of said court, for the purpose of conducting any and all proceedings, examinations, and inquiries, and (iii) bring any and all criminal actions and proceedings which may be had or taken before said grand jury and other grand juries concerning or relating to any and all alleged unlawful acts as described by this Order;

FURTHER, for any matter covered herein, the special prosecutor will provide to me, or my designee, a report on all cases where, (i) the special prosecutor declines to present evidence to a grand jury regarding the death of a civilian as described in this Order, whether in custody or not, allegedly caused by a law enforcement officer, or (ii) the grand jury declines to return an indictment on any charges. The report will include, to the extent possible and lawful, an explanation of that outcome and any recommendations for systemic reform arising from the investigation.

This Executive Order shall continue until modified, suspended or terminated by the Governor.



GIVEN under my hand and the Privy Seal of the State in the City of Albany this eighth day of July in the year two thousand fifteen.

BY THE GOVERNOR

William J. Mahoney

Secretary to the Governor