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Shooting case closed

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Article Text:

It is case closed after a grand jury cleared the two Lincoln County deputies involved in a July 28 shooting outside Capitan, declining to indict them Oct. 7.

The two deputies had been cleared by an internal Sheriff's Department investigation a couple of weeks after the shooting and returned to duty.

District Attorney Diana Martwick took the case to a grand jury for a determination of the officer's justification for the shooting. According to Deputy District Attorney Reed Thompson, this is normal procedure for any officer-involved shooting.

Martwick said she had no comment regarding grand jury testimony, which takes place behind closed doors. She said the fact the grand jury did not issue an indictment prevents her from speaking about the case.

A New Mexico State Police crime scene team investigated the shooting and concluded the two deputies shot and killed James Latham, 60, during a confrontation at Latham's home on Highway 380 east of Capitan after Latham pointed a gun at them.

The report says Deputy Ben Hazen shot at Latham twice with a .45-caliber pistol and the Deputy Neal Cox shot at Latham twice with a 12-gauge shotgun loaded with 00-buckshot. Latham died at the scene.

The deputies had responded to Latham's home after Latham's wife called 911 to report a domestic dispute in the Lathams' vehicle, during which Latham struck her in the face after an argument about him being intoxicated. She got out of the vehicle and went to a friend's house in Capitan. She said Latham left in the vehicle, saying he was going home to get a gun. She also told the officers that when Latham drank he was unpredictable and not a rational person.

The report said three deputies and Capitan Police Officer Kevin Kennedy responded to the Latham home about six miles east of Capitan and the officers identified themselves and asked Latham to come outside and talk to them. The officers reported Latham appeared at the door briefly, then went back inside the house and reappeared armed with a .45-caliber semi-automatic pistol.

Latham told the deputies to "get off his property" and raised the pistol. The two deputies had seen that Latham was armed and were retreating from the house to seek cover when Latham raised the pistol, according to the State Police report. They ordered him to drop the pistol several times. When he didn't drop the gun and raised it to aim at them, they fired.

"The grand jury asked a lot of questions about the appropriate level of force to be used in a situation like this," said a member of the grand jury who asked to not be identified. "They wanted to know if the officers could have used their Tasers instead of shooting."

A Taser is a gun-like device that uses propelled wires or direct contact to electrically stun and incapacitate a person temporarily.

After hearing the testimony, the grand jury voted to not indict.

The deputies told the investigators they were aware that Latham was a convicted felon who should not have had any firearms. Latham's wife had told them there were guns in the home. Latham had been convicted of an indecency with a child in Sterling, Texas, May 30, 2000. He was registered with the Lincoln County Sheriff's Department as a convicted sex offender.
LCSO Sergeant Steve Minner, the third deputy on the scene at the time of the shooting told investigators he was in fear for his life and would have fired at Latham, but Kennedy was in his line of fire.
The rounds reportedly struck Latham in the groin, chest and face.
Kennedy attempted to stop the bleeding from a gunshot wound on Latham's leg, which he said was bleeding profusely. Emergency Medical Personnel from the Ruidoso Fire Department arrived and found Latham was dead.
"The case is closed," Martwick said.
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