

# Martin won't turn probe over to state; DA will determine whether officer was justified in Saturday shooting

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## FULL TEXT

Lehigh County District Attorney Jim Martin said Thursday he will not ask the state attorney general's office to take over his investigation into the fatal shooting of a New Jersey man by a South Whitehall Township police officer. The request that he step aside came from South Whitehall Commissioner Mark Pinsley, who said referring the case to the state would erase any perception of bias.

"I will not recuse myself from the investigation. I will not be referring it to the attorney general's office," Martin told The Morning Call. "I am perfectly capable of handling it in an unbiased fashion."

State police are working with Martin's office to determine if the officer was justified in the Saturday shooting of Joseph Santos, 44, of Hasbrouck Heights, N.J. South Whitehall police Chief Glen Dorney said he has confidence in their investigation.

According to state law, the only way the attorney general's office could take over a case is if it's referred by a district attorney. Even then, the attorney general's office would only get involved if it found a conflict of interest that might keep the district attorney from being objective.

The Philadelphia district attorney's office took that step last year when it referred the fatal shooting of David Jones to the attorney general's office. Officer Ryan Pownall, who has since been let go from the department, confronted Jones, who was on a dirt bike and armed. After Jones, 30, ditched the bike, dropped the gun and ran, Pownall shot him three times in the back, according to published reports. The shooting was captured by a surveillance camera. Kelley Hodge, who was the city's interim district attorney at the time, referred the case to the state, citing a conflict of interest. She declined to explain that conflict, according to WHYY.

The name of the officer involved in the South Whitehall shooting has not been released. He responded about 5:45 p.m. to a report of a man interfering with traffic by jumping on cars and ripping out a car window. He can be heard on police radio requesting backup to handle a "mental issue."

New videos posted on Facebook Thursday show a man climbing on a South Whitehall police car, then splaying himself across the hood and windshield as the driver keeps going.

The man, who appears to be Santos, is captured in one video hanging onto a white car heading west on Hamilton Boulevard. Another video shows him across the street, on the hood of the police car, which moves several feet before stopping.

The woman who posted it wrote, "I witnessed Joseph Santos act like a complete maniac and scare the lives of those behind the wheel. I was one of the many people who contacted the authorities to report this man. I had not come forward because it is not my intent for people to use me to demonize a man who was simply doing his job."

Known as Nadia Elizabeth on Facebook, the woman said she was among those who called police upon seeing Santos jumping on cars near Dorney Park. She has met with authorities, she said, and gave them her videos.

Other videos show Santos hanging on the passenger side of the police car before the officer gets out. Santos does not appear to be armed. The videos show Santos walking away from the stopped police car, then reversing course as the officer shouts repeatedly for him to "get on the ground." Santos slightly raises then lowers a hand before the

officer fires five shots and Santos collapses to the ground.

Santos' family has called the shooting "unjustifiable."

Martin, at a news conference Saturday night, said the officer "encountered the gentleman and unfortunately had to use his weapon and shot him."

Pinsley, who is running for state Senate, said Martin's comment "has led many to believe that the outcome of the investigation has already been predetermined."

He added that Martin's daily interactions with police "could reasonably lead to a degree of bias in this investigation."

By asking the attorney general to step in, Pinsley said, Martin would "avoid all appearances of impropriety."

Martin's decision isn't out of the ordinary. In police shootings in East Pittsburgh and Harrisburg this year, district attorneys handled the investigations.

The Allegheny County district attorney's office investigated the June 19 fatal shooting of 17-year-old Antwon Rose II in East Pittsburgh, deciding to file a homicide charge against police officer Michael Rosfeld. According to published reports, Rose was unarmed when he ran from police during a traffic stop. Like Santos' death, Rose's was captured on video by a witness.

The Dauphin County district attorney's office has not completed its investigation of the Feb. 1 fatal shooting of Albert Earl Morton Jr., 31, by Harrisburg police. Morton was driving when, police say, he started speeding toward an officer.

In all three Pennsylvania cases, the victim was either black or Hispanic. That has been the case in a number of other incidents across the country in recent years, prompting protests and allegations of police bias.

At a Wednesday night vigil for Santos at Hamilton Boulevard and Lincoln Avenue, the 100 or so people who gathered demanded action to keep police from turning to lethal force.

"If he was white, would they have gone a different route?" Santos' brother, Luis, asked those assembled.

"Yes," they shouted.

Across Lincoln Avenue, a handful of counterprotesters stood in support of police.

On Facebook Thursday, Nadia Elizabeth joined that chorus: "I don't wish death upon anyone but I sure as hell don't wish for police officer to be demonized for doing his job," she wrote.

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Credit: By Sarah M. Wojcik - Of The Morning Call - swojcik@mcall.com;Twitter @Sarah\_M\_Wojcik;610-778-2283

Caption: Chronological screen shots from a video obtained by The Morning Call show the seconds leading up to the fatal shooting of Joseph Santos by a South Whitehall Township police officer on Saturday. The panels show the progressional stages of the incident.

Joseph Santos, 44, of Hasbrouck Heights, N.J., was killed by South Whitehall Township police after, witnesses say, he was jumping on moving cars on Hamilton Boulevard.

SPECIAL TO THE MORNING CALL

CONTRIBUTED PHOTO/

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