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SUITE SD-255
DIRKSEN BUILDING
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202-224-2742

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508-677-0523

1550 MAIN STREET, 4TH FLOOR
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413-785-4610

August 4, 2020

The Honorable William P. Barr
U.S. Attorney General
Department of Justice
Washington, DC 20530

The Honorable Letitia James
New York Attorney General
Office of the Attorney General
Albany, NY 12224

Ms. Audrey Strauss
Acting U.S. Attorney
for the Southern District of New York
1 Saint Andrews Plaza
New York, NY 10007

The Honorable Anthony A. Scarpino, Jr.
Westchester County District Attorney
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, NY 10601

Dear Attorney General Barr, Acting U.S. Attorney Strauss, Attorney General James, and District Attorney Scarpino:

I write because justice demands that each of you take immediate action to conduct a renewed, thorough, and transparent investigation into the death of Danroy “DJ” Henry, Jr. On October 17, 2010, DJ, then a 20-year-old junior and football player at Pace University, was fatally shot by Mount Pleasant New York Police Department Officer Aaron Hess. The circumstances surrounding DJ’s death merit further scrutiny than prior investigations have provided. In particular, new evidence that has emerged in the years since DJ’s killing demands the re-opening of this case and a closer examination of this tragedy.

In 2014, I wrote to then-U.S. Attorney General Eric Holder and urged the U.S. Department of Justice (DOJ) to conduct a comprehensive review of DJ’s death. Since then, all the official inquiries into this shooting have ended, including a federal investigation of potential civil rights violations, a local investigation of police misconduct, and related civil litigation. But despite these official books having been closed, justice has not been served. Instead, the premature conclusion of these investigations has left new evidence about DJ’s death unaddressed and unresolved. I specifically refer to two widely reported developments that warrant a renewed look at this case.

First, Officer Ronald Beckley, a second member of the Mount Pleasant police force who was present at DJ’s shooting and deposed in 2012 in the civil litigation, contradicted Officer Hess’s claim that DJ instigated the confrontation leading to his death. In direct contrast to Officer Hess’s account, Office Beckley testified that Officer Hess appeared to be the actual “aggressor” that

evening.¹ It is unclear whether Officer Beckley's critical evidence was ever presented to the grand jury for it to consider in weighing charges against Officer Hess. Officer Beckley's testimony suggests that Officer Hess engaged in conduct toward DJ that demands greater scrutiny.

Second, as part of a 2017 settlement of civil litigation with the Henry family, the Town of Mount Pleasant offered a public apology. In it, the Town expressed regret for "any statements made on its behalf . . . before the events of October 17, 2010 were fully investigated and the underlying facts understood."² The Town also acknowledged that, "[a]s later fact-finding revealed, these statements do not fully or fairly represent the events of that early morning."³ This apology and acknowledgment that the Town had not told the truth came years after the local police department had presented its story of DJ's acting aggressively on the night of his death — not just to reporters, but to the grand jury investigating Officer Hess for misconduct.⁴

These two pieces of new evidence raise additional questions about the accuracy of the official police account of the case. Already, the circumstances surrounding the shooting called into serious question the assertion that the use of force against DJ — especially fatal force — was at all warranted or justifiable. Although these new facts on their own are sufficient to justify renewed investigation, their emergence coincides with our nation's long-overdue reckoning with police misconduct and use of excessive force, especially against young Black and Brown men such as DJ. As a nation, we must recognize that we risk denying justice by simply accepting what was done in the past. It is long past time that we, as a society, honor the inherent value of Black and Brown lives by ensuring all police-involved shootings — especially those resulting in death — receive the most rigorous scrutiny. Anything less is a betrayal of our collective promise to be a country dedicated to achieving equality for all.

In light of these facts and principles, I strongly urge each of you to utilize your respective powers as law enforcement officials to re-open DJ's case to ensure that justice is done for the Henry family.

Sincerely,



Edward J. Markey
United States Senator

¹ *New York Police Officer Says Other Officer Was Aggressor In DJ Henry Shooting*, CBS Boston (Oct. 1, 2012), <https://boston.cbslocal.com/2012/10/01/new-york-police-officer-says-other-officer-was-aggressor-in-dj-henry-shooting>.

² Donna Whitehead, *Settlement Reached in DJ Henry Lawsuit*, Wicked Local (May 9, 2017), <https://easton.wickedlocal.com/news/20170509/settlement-reached-in-dj-henry-lawsuit>.

³ *Id.*

⁴ *Family asks: Was the fatal shooting of a Pace University football player by police justified?*, CBS News 48 Hours (June 13, 2020), <https://www.cbsnews.com/news/dj-henry-shooting-death-was-police-shooting-of-pace-university-football-player-justified>.