

Justice

REPORT OF THE DEPARTMENT OF JUSTICE
DELAWARE STATE POLICE & NEW CASTLE COUNTY POLICE
DEPARTMENTAL SHOOTING

September 16, 2008

JOSEPH R. BIDEN
ATTORNEY GENERAL

By: TIMOTHY MULLANEY, SR.
Director of Fraud Division

THE SCOPE OF THE INVESTIGATION

This is the final report of the Delaware Department of Justice on the use of deadly force against Maurice Faulkner by Delaware State Police Corporals Andre Brown and Adalberto Garcia and New Castle County Police Officer Joseph Wyka on September 16, 2008. Special Investigator Anthony Davolos conducted the investigation for the Department of Justice. Deputy Attorney General Timothy Mullaney supervised the investigation and review of the use of force for the Department of Justice. They reviewed statements taken from Corporals Andre Brown and Adalberto Garcia and Officer Joseph Wyka along with statements taken by other officers at the scene. They also reviewed physical evidence, reports written by officers who responded to the scene or otherwise participated in the investigation, photographs, videos and medical reports.

PURPOSE OF THE ATTORNEY GENERAL'S INVESTIGATION

The Department of Justice's investigation of police shootings serves a specific but limited purpose. The Attorney General determines whether a police officer's use of deadly force constitutes a criminal act. The Attorney General does not establish or enforce internal police policies concerning the proper use of deadly force by police officers. Police departments are responsible for establishing and enforcing guidelines for the use of force by their officers and for determining whether an officer's actions were consistent with such guidelines in a given case.

This report expresses no opinion whether the officers actions complied with any departmental policies or procedures concerning the use of force set by The Delaware State Police and The New Castle County Police, or whether, with the benefit of hindsight, the officers could have proceeded differently. The only purpose of the Department's investigation of this shooting is to determine whether the officers committed a crime when they used deadly force against Maurice Faulkner. One of the issues that must be considered in any intentional shooting is whether the use of deadly force was justified under all the circumstances.

FACTS OF THE INVESTIGATION

On September 16, 2008, at approximately 1730 hours, the PNC Bank located at 250 Foxhunt Drive, Newark, Delaware was robbed by a black male displaying a handgun. The suspect was described as wearing a white T-shirt and grey pants. The suspect fled onto Route 40 in a Rent-A-Center box truck. The suspect vehicle was followed by a witness from the bank who reported his location via cell phone. The suspect vehicle was observed by the civilian witness drive into the College Square Shopping Center on Route 72 and then exit the shopping center going south on Route 72. It was at this point where most uniformed officers made visual contact with the suspect and engaged in a low speed pursuit.

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driving



JOSEPH R. BIDEN, III
ATTORNEY GENERAL

THIS DOCUMENT HAS BEEN REVIEWED BY

Chief Deputy Attorney General Richard Gebelein

Comments:

Approved.

[Handwritten Signature]

Signature

Date 4/24/09

State Prosecutor Richard G. Andrews

Comments:

*V came out w/ apparent s/a
weapon; clearly reasonable fear
for police lives; justified.*

[Handwritten Signature: Richard G. Andrews]

Signature

Date 4/11/09

Timothy Mullaney, Head of Fraud Division

Comments:

[Handwritten Signature: Timothy Mullaney]

Signature

Date 4/11/09

*Changes have been
made 4/15/09
[Handwritten Signature]*