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ATTORNEY GENERAL

November 1, 2013

Colonel Nate McQueen
Superintendent
Delaware State Police
P.O. Box 430
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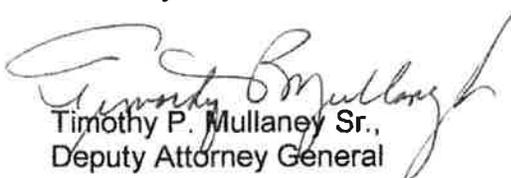
RE: Use of Deadly Force - TFC Brett Cordrey

Dear Colonel McQueen:

The Delaware Department of Justice has completed its investigation and review of the use of deadly force by TFC Brett Cordrey on February 19, 2013. As a result, TFC Cordrey's use of deadly force was deemed justifiable and is not subject to criminal prosecution under Delaware law.

Thank you and your command for your cooperation and assistance in this matter. Please contact me if you have any questions.

Sincerely,


Timothy P. Mullaney Sr.,
Deputy Attorney General

tpm
Enclosure

**REPORT OF THE DEPARTMENT OF JUSTICE
DELAWARE STATE POLICE USE OF DEADLY FORCE
SUBJECT: KEITH SCHUELLER
OFFICER: TFC BRETT CORDREY
FEBRUARY 19, 2013**

By: Timothy P. Mullaney Sr. 
Deputy Attorney General
September 25, 2013

Scope of the Investigation

This is the final report of the Delaware Department of Justice on the investigation of Trooper First Class Brett Cordrey of the Delaware State Police use of force against Keith Schueller. Special Investigator Jack Desmond conducted the investigation. Deputy Attorney General Timothy P. Mullaney Sr. supervised the investigation and reviewed the use of force for the Department of Justice. Investigators examined the actual crime scene and also reviewed evidence, reports written by officers who responded to the scene and witness interviews.

Purpose of the Department of Justice Report

The Department of Justice's investigation of law enforcement officer shootings serves a specific but limited purpose. The Department determines whether a law enforcement officer's use of deadly force constitutes a criminal act. The Department does not establish or enforce internal police policies concerning the proper use of deadly force by law enforcement officers. Law Enforcement Agencies 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 give case.

This report expresses no opinion whether the officer's actions complied with the departmental policies or procedures concerning the use of force set by the Delaware State Police (DSP) or whether, with the benefit of hindsight, the officer could have proceeded differently. This is a matter of a separate internal investigation to be undertaken by the Delaware State Police. The only purpose of the Department of Justice's investigation of the shooting is to determine whether the officer committed a crime when he used deadly force against Mr. Schueller. One of the issues that must be considered in any internal shooting is whether the use of deadly force by a law enforcement officer was justified under all of the circumstances.

The Facts

On February 18, 2013, Suspect Keith Schueller allegedly committed a Burglary at the Safeway store located in Rehoboth Beach, Delaware. Mr. Schueller fled the scene on the arrival of Delaware State Police leaving his maroon Jeep Cherokee, De. Reg. PC426427, at the scene. The vehicle was towed to an impound lot. Detectives searched the area for Mr. Schueller. On February 19, 2013, Detectives passed on information to the various Delaware State Police Troop roll calls advising the road Troopers to be on the lookout for Mr. Schueller. Corporal

Lewis Briggs along with several other Troopers responded to the home of Mr. Schueller and found that he was not home. They then went to the Club Fitness gym where Mr. Schueller works out and also found that he was not at that location. Corporal Briggs then went on with his daily shift answering calls for service. At approximately 1300 hours on the 19th, Corporal Briggs noticed a maroon Jeep speeding on Route 1 and was able to get the tag number. Briggs learned that the vehicle belonged to Keith Schueller and was the vehicle that had been towed the night before. Briggs later learned that Mr. Schueller went to the impound lot and removed his vehicle without authorization.

Corporal Briggs requested assistance to make a car stop and another trooper advised he was in the area and would assist. Both Troopers observed the maroon Jeep turn on to Postal Lane and travel west bound and the Troopers were able to get immediately behind the Jeep. Emergency lights and sirens were not activated at that point because Postal Lane does not have a shoulder to pull over on. The maroon Jeep turned right into the Sandy Brae development and once inside the Troopers activated their emergency equipment. The driver of vehicle, later confirmed to be Keith Schueller, picked up speed in an attempt to allude the officers. After making several turns, Mr. Schueller turned onto a street that was a dead end; however he drove across a front lawn and proceeded in between two houses, their back yards and then back on to Postal Lane with the Troopers following. Mr. Schueller continued to drive at a high rate of speed, disregarding the stop sign at Postal Lane and Plantation Road and striking a vehicle that was driving south on Plantation. Mr. Schueller's car became disabled at which time he exited the vehicle, while it was still moving, and fled on foot into a corn field. The trooper assisting TFC Cordrey stopped at the scene to check on the driver of the vehicle struck by Mr. Schueller.

TFC Cordrey continued to chase Mr. Schueller across the field while still in his marked patrol car. TFC Cordrey caught up to Mr. Schueller and exited his vehicle and began to chase Mr. Schueller on foot. During the foot chase, TFC Cordrey removed his stun gun and found that there was an issue with the battery connection. TFC Cordrey got to within 10 to 20 feet of Schueller, who had stopped and picked up a shovel that was laying by some farm equipment. At this point, Cordrey was able to discharge his taser. However it is believed the probe did not strike Mr. Schueller. According to witnesses at the scene, Mr. Schueller held the shovel in a threatening manner but he continued to run once he saw the taser light shine on him. The foot chase continued to the side of a barn where Mr. Schueller again stopped and began to swing the shovel at TFC Cordrey. According to TFC Cordrey, he was in fear of his life and had never been so scared. TFC Cordrey ordered Mr. Schueller numerous times to drop the shovel. Mr. Schueller failed to comply and continued to threaten TFC Cordrey with the shovel. TFC Cordrey advised that he had no option but to fire his departmental weapon, which he did one time.

Upon discharging the weapon, Mr. Schueller immediately dropped the shovel and fell to the ground. It was learned that Mr. Schueller had been struck one time in the lower right back.

At approximately 1330 hours, an ambulance responded to the scene and Mr. Schueller was transported to the Beebe Medical Center. Mr. Schueller was found to have non-life threatening wounds and was later transferred to Christiana Hospital. On February 28th, 2013, warrants were signed by Detective William Porter against Mr. Schueller for Aggravated Menacing and Possession of a Deadly Weapon during the Commission of a Felony. The warrants were served on Mr. Schueller and bail was set at \$50,000.

Conclusion

After a thorough investigation and review of all statements and reports, it is the conclusion of the Department of Justice that, as a matter of Delaware Law, Delaware State Police Trooper First Class Brett Cordrey's use of deadly force was not a criminal act because the use of such force was justified. Section 464 of Title 11 of the Delaware Code generally defines the legal use of force in self-protection. It provides, in pertinent part, that "[t]he use of force upon or toward another person is justifiable when the [officer] believes that such force is immediately necessary for the purpose of protecting the [officer] against the use of unlawful force by the other person on the present occasion".

Under Delaware Law, it is TFC Cordrey's subjective state of mind which is of critical importance in determining whether his use of force was justifiable. The specific factual issue is whether TFC Cordrey actually believed at the time that he intentionally fired his weapon that such action was necessary to protect himself from death or serious physical injury, so long as he was not reckless or negligent in having such belief or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of the use of force.

At the time TFC Cordrey fired his weapon, he had made the attempt to disable Mr. Schueller by attempting to stun him with his taser gun. TFC Cordrey was able to discharge the taser but it is not known whether the probe struck Mr. Schueller or if it missed. TFC Cordrey, who was having difficulty with his taser gun, attempted to make adjustments in order for a second taser charge to be used but he was confronted with Mr. Schueller who had stopped, turned and held a shovel over his head in a threatening manner. TFC Cordrey switched from the taser to his departmental issued weapon, and had to discharge his weapon because he was in fear of his life. Mr. Schueller immediately dropped the shovel and fell to the ground where additional Troopers were able to take him into custody. The investigation of the facts and circumstances fully support the reasonableness that TFC Cordrey felt his life was in danger.

That belief was not formed recklessly or negligently. As a result, TFC Cordrey's use of deadly force was justified and is not subject to criminal prosecution under Delaware law.