

**REPORT OF THE DEPARTMENT OF JUSTICE
DELAWARE STATE POLICE USE OF DEADLY FORCE
SUBJECT: ANGEL FELICIANO
OFFICER: TROOPER 1ST CLASS TALANSKY JEAN
SEPTEMBER 15, 2012**

**By: Timothy P. Mullaney Sr.
Deputy Attorney General
September 23, 2013**

Scope of the Investigation

This is the final report of the Delaware Department of Justice on the investigation of Delaware State Police Trooper First Class Talansky Jean's use of force against Angel Feliciano. 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 given case.

This report expresses no opinion on whether the officer's actions complied with 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. That is a separate internal investigation to be undertaken by the Delaware State Police. The sole purpose of the Department of Justice's investigation of the use of deadly force is to determine whether the officer committed a crime when he used deadly force against Mr. Feliciano. 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 September 15, 2012 at 2132 hours, TFC Talansky Jean was dispatched to a report of a suicidal subject at 17 Dusty Branch Lane in Harrington. The call to Kentcom was made by Crisis Intervention who was on the phone with Angel Feliciano. Mr. Feliciano was threatening to kill himself due to a recent separation from his wife. A Corporal with the Felton Police Department advised that he would respond as back up. While responding to the scene, TFC Jean was advised via radio by two law enforcement officers that Mr. Feliciano possessed a number of knives. He had also stated that he would run from the police. TFC Jean was familiar

with Mr. Feliciano, because he had an encounter with him three to four months previously, when he observed Feliciano in his car in a corn field. At that time, Mr. Feliciano was upset because he was having domestic related issues. TFC Jean transported Mr. Feliciano to Kent General Hospital for a 72 hour commitment assessment. However after being examined Mr. Feliciano was released without being committed.

Upon arriving, TFC Jean's observed Mr. Feliciano sitting in his Chevrolet Tahoe, De. Reg. 79689 in the driveway of his residence, 17 Dusty Branch Lane in the development of Pine Ridge. When TFC Jean exited his vehicle, he asked Mr. Feliciano to shut off his vehicle. Instead, Mr. Feliciano drove from the driveway to the side yard of the dwelling. TFC Jean repeatedly shouted commands for Mr. Feliciano to roll down his window and turn the car off; however Mr. Feliciano did not comply. TFC Jean, along with some bystanders continued to shout at Mr. Feliciano to comply and turn the car off. Instead of complying, Mr. Feliciano made a u-turn from the side yard back to the driveway. According to Jean, he could not see inside the car because the windows were tinted. He used his ASP baton to break out the left rear quarter glass window to see what Mr. Feliciano was doing. With that, Mr. Feliciano accelerated rapidly and left the driveway, turning right on to Thornwood Road from Dusty Branch Lane.

At this point, TFC Jean returned to his marked patrol car, turned his overhead emergency lights on, and drove from the driveway onto Thornwood Road. After driving approximately 75 yards, Jean observed Mr. Feliciano make a u-turn with his vehicle. Mr. Feliciano drove back down Thornwood Road directly at TFC Jean and his vehicle. Jean advised that he could hear and see Mr. Feliciano's vehicle accelerating. He believed that he could not so to avoid being struck by Mr. Feliciano's vehicle. Fearing for his life, TFC Jean exited his patrol car to avoid the collision. Prior to impact, TFC Jean fired approximately six (6) rounds at Mr. Feliciano's vehicle. Based on the accident reconstruction report, the marked patrol car was struck by Mr. Feliciano's Tahoe at 64 miles per hour and pushed the patrol car 63 feet before it came to a stop. TFC Jean went on to say that he continued to feel threatened and he could see that Feliciano was maneuvering the steering wheel and gear shift in what he believes was Mr. Feliciano's attempt to put the vehicle in reverse and come after him again. TFC Jean continued to fire his departmental handgun as he watched Mr. Feliciano continue to maneuver the steering wheel and gear shift. At some point, Jean was not certain if the bullets were penetrating the vehicle and continued to shoot and reload until Mr. Feliciano stopped his activity with the gear shift. It was determined that TFC Jean fired a total of 33 rounds and had four rounds remaining in his weapon.

At this point, TFC Jean shouted to Mr. Feliciano to show his hands, as he was moving to the east side of the street where the Felton officer was located. Once on the east side of the

street, TFC Jean took cover because he was not certain whether a threat still remained. TFC Jean remained there until additional police units arrived. Once additional police officers arrived they opened the driver's door, Mr. Feliciano fell from the vehicle to the ground. Sussex County EMS arrived and pronounced Mr. Feliciano dead.

Mr. Feliciano's body was transported to the Medical Examiner's Office where an autopsy was conducted by the Medical Examiner's Office. According to the autopsy report, Mr. Feliciano died of multiple gunshot wounds. It was determined that Mr. Feliciano was struck by five rounds, all in the back, one round perforated the heart.

No weapons were found in the vehicle or on Mr. Feliciano. Prior to clearing the scene, various Detectives searched the area for witnesses and their statements were documented.

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 Talansky Jean'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 parameters of the legal use of force for 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 Trooper Jean'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 Jean 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, as long as he was not reckless or negligent in having such belief or in acquiring or failing to acquire any knowledge or belief material to the of the use of force.

At the time TFC Jean fired his weapon, he was aware of past incidents between various police agencies and Mr. Feliciano. TFC Jean was aware of Mr. Feliciano's history with mental illness and was also aware of comments that Mr. Feliciano had made regarding future contacts with law enforcement. It was clear that Mr. Feliciano had the intent to harm himself and TFC Jean by driving his vehicle 64 miles an hour directly at TFC Jean's vehicle. TFC Jean believed he was in immediate danger and that the use of deadly force was immediately necessary to prevent serious injury or death to himself. TFC Jean also believed that Mr. Feliciano was trying to place the vehicle back in motion to continue his assault. TFC Jean continued to fire until he

no longer could see Mr. Feliciano making an attempt to move his vehicle. At that point, he felt the threat was finally over. Once TFC Jean fired his last round, he responded across the street and remained behind cover until other police units arrived and opened Mr. Feliciano's car door. Until that time, TFC Jean believed that there was a continuing threat. The investigation of the facts and circumstances fully support the reasonableness of TFC Jean's believe that his life was in danger because Mr. Feliciano drove his vehicle at a high rate of speed on a collision course with TFC Jean's marked patrol unit. That belief was not formed recklessly or negligently. As a result, TFC Jean's use of deadly force was justified and is not subject to criminal prosecution under Delaware Law.