

**REPORT OF THE DEPARTMENT OF JUSTICE
DOVER POLICE DEPARTMENT USE OF DEADLY FORCE**

**SUBJECT: James R. Long
OFFICERS: PFC John Willson
Cpl. Kevin Streadwick**

DATE OF INCIDENT: December 21, 2014

**By: Allison E. Reardon
Deputy Attorney General
July 16, 2015**

Scope of the Investigation

This is the final report of the Delaware Department of Justice, Office of Civil Rights and Public Trust, on the investigation of the use of force by Patrolman First Class John Willson (PFC Willson) and Corporal Kevin Streadwick (Cpl. Streadwick) of the Dover Police Department against James R. Long (Mr. Long). Special Investigator Franklin Robinson conducted the investigation. Director of Special Investigations Robert Irwin supervised the investigation, and Deputy Attorney General Allison E. Reardon reviewed the use of force for the Department of Justice. Investigators examined the 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 whether the officer's actions complied with departmental policies or procedures concerning the use of force set by the Dover Police Department 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 Dover Police Department. The sole purpose of this Department of Justice investigation is to determine whether the involved officers committed a crime when they used deadly force against Mr. Long. One of the issues that must be considered in any law enforcement officer-involved shooting is whether the use of deadly force by the officer was justified under all the circumstances.

The Facts

On December 20, 2014, at approximately 10:38 pm members of the Dover Police Department (Dover PD) were contacted to respond to the apartment of James R. Long, after receiving information that Mr. Long called a suicide hotline stating that he was planning to kill himself on December 25, 2014. During the call he asked the worker to tell him why he should continue to live. The hotline worker called the Colorado Police Department (CPD) because the call came from a phone with a Colorado area code. Mr. Long did not identify himself and the worker thought he sounded extremely intoxicated. The worker contacted the police after Mr. Long disconnected from the call. The CPD called the number provided and made contact with Mr. Long, but he refused requests to identify himself or his location. When Mr. Long spoke with the hotline worker and the Colorado police, he reported that he had a plan of "inspiring someone to help him" commit suicide and alluded to the fact that he planned to involve the police. He mentioned that during a prior call with the veterans' crisis hotline he expressed an "overwhelming desire to involve the police". He also disclosed previous suicide attempts. The

Colorado police were able to get a name and location through the telephone service and contacted the Dover PD; officers were immediately dispatched to Mr. Long's address.

Police were familiar with Mr. Long, who had a history of mental health issues and arrests related to driving under the influence. In February 2014, Mr. Long was involved in a vehicle pursuit with the Dover PD while driving intoxicated and was arrested. As that time he asked the police to shoot him. In May 2014, Mr. Long was again involved in a vehicle pursuit with Dover PD and made suicidal statements to officers while being taken into custody. In June 2014, Mr. Long barricaded himself in his apartment after calling a veterans' crisis hotline and threatening suicide. He also made statements that if the police responded the result would be "suicide by cop". He repeated the threats to police negotiators brought in to assist. During the June incident, Mr. Long refused to exit his apartment and police lost contact with him. The Dover PD Special Operation Response Team (SORT) was activated to assist police with gaining access in order to take Mr. Long into custody. When the SORT entered the apartment to take Mr. Long into custody, they found him passed out in his room. Mr. Long was treated at a number of facilities, both voluntarily and involuntarily, following his interaction with the police. Mr. Long's treatment records contain multiple references to his suicidal ideation and desire to involve law enforcement in his plan, sometimes referred to as "suicide by cop".

Master/Corporal (M/Cpl.) Jeff Melvin, who had served as a negotiator during the June 2014 barricade incident, made phone contact with Mr. Long in an effort to persuade him to open the door for the police officers who were in the hallway outside of his apartment, but Mr. Long refused to exit the apartment. M/Cpl. Melvin reported that Mr. Long appeared to be intoxicated. Mr. Long would talk to M/Cpl. Melvin for a couple of minutes and then hang up. M/Cpl Melvin made repeated calls to Mr. Long in an effort to get him to voluntarily leave the apartment. For about an hour before engaging the SORT, M/Cpl. Melvin and officers on scene attempted to convince Mr. Long to come out of his apartment. However, Mr. Long never acknowledged the officers who called out commands, knocked on the door and rang the door bell. As Mr. Long refused to leave the apartment, the SORT was activated and responded to the scene.

Officers on scene heard sounds from inside of Mr. Long's apartment which they described as Mr. Long adjusting locks or barricading the door to prevent them from entering. Officers near the door heard Mr. Long talking on the phone. They were able to confirm that he was talking with M/Cpl. Melvin. Officers positioned around the perimeter of the apartment had a view inside of the apartment through a partial opening in the blinds on the sliding glass door on the balcony and observed Mr. Long rocking back and forth in what appeared to be an agitated or excited state.

At approximately 12:11 am, Lt. David Spicer, Commander of the Special Investigations Unit and the Dover PD SORT, gave approval for the SORT to enter Mr. Long's apartment to take him into custody. SORT officers were dressed in tactical gear identifying them as police officers. Additionally, PFC Willson, who was designated as the first member of the team positioned to enter the apartment, carried a shield that was clearly marked "POLICE" in bold white letters across the front. The SORT first tried to open the door using a key obtained from the apartment manager. When the door failed to open, Detective Scott Hurd used a metal ram to gain entry. M/Cpl. Streadwick, who was in second position to enter the apartment, deployed a

noise flash diversionary device into hallway that filled the hallway with a flash of light and heavy smoke that activated the fire alarm. As the team entered the apartment, officers positioned on the perimeter observed Mr. Long moving across his apartment in the direction of the front door. After moving several feet inside of the residence, the entry team encountered Mr. Long positioned against a far wall at the end of the entrance hallway near the opening to a second hallway leading to the back of the apartment. Mr. Long was within feet of the officers. Patrolman First Class Matthew Krogh reported that he could see Mr. Long in silhouette through the smoke as the SORT entered the hallway and that Mr. Long was facing the entry team with both arms extended in front of his body with his hands together in front of his body. His first thought was that Mr. Long had a gun. Several officers assigned to the entry team and perimeter officers standing outside of the building reported hearing shouts of "gun" yelled several times before PFC Willson discharged his department issued Glock handgun and M/Cpl. Streadwick discharged his department issued Smith and Wesson rifle.

Mr. Long was struck twice and fell to the floor. Officers at the scene observed PFC Willson kicking what appeared to be a black semiautomatic handgun away from Mr. Long's hand in the area where Mr. Long fell. The entry team cleared the residence, having found no other occupants, rendered first aid to Mr. Long until EMS arrived and transported him to Kent General Hospital Emergency Department. Mr. Long was pronounced dead at 12:45 pm.

Mr. Long's gun was recovered from the scene and determined to be a black Colt Defender pellet gun, a replica of a Colt 1911 model .45 caliber handgun. The shipping materials were found in the apartment. Officers also recovered a bucket containing ammonia near the apartment door. An open plastic container of bleach had been placed inside of the bucket. The placement of the bucket of chemicals appeared to have been intended to cause the bleach container to empty into the bucket of ammonia to create a cloud of chlorine gas that would cause injury to anyone entering the apartment. However, the bleach did not spill over when the SORT entered the apartment. Police also found a screwdriver and vice attached to the lock on the door that Mr. Long had tried to use to prevent the police from entering the apartment.

The medical examiner listed the manner of Mr. Long's death as "Suicide". Toxicology reports indicated that Mr. Long had alcohol and marijuana in his system.

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, the use of force by Dover Police Department PFC John Willson and Cpl. Kevin Streadwick 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." Additionally, Section 465 of Title 11 of the Delaware Code defines the use of force for the protection of other persons. It provides that, "[t]he use of force upon or toward another person is justifiable to protect a third person

when the [officer] would have been justified under § 464 of this title in using force to protect the [officer] against the injury the [officer] believes to be threatened to the person whom the [officer] seeks to protect.”

Under Delaware law, it is PFC Willson’s and Cpl. Streadwick’s subjective state of mind that is of critical importance in determining whether their use of force was justifiable. The specific factual issue is whether PFC Willson and Cpl. Streadwick actually believed at the time that they intentionally fired their weapons that such action was necessary to protect themselves or others from death or serious physical injury, so long as these officers were 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.

Mr. Long contacted a suicide hotline indicating that he planned to involve others in his suicide and alluded to the fact that he planned to commit suicide by cop. When police officers responded, Mr. Long refused to voluntarily exit his apartment, requiring the SORT to forcibly enter the apartment. When they did, Mr. Long confronted them in a narrow hallway with what appeared to be a black semi-automatic handgun that he pointed directly at them. PFC Willson and Cpl. Streadwick discharged their weapons in response to the threat of death or bodily injury to themselves and others posed by Mr. Long.

The investigation of the facts and circumstances fully support the reasonableness of PFC Willson’s and Cpl. Streadwick’s belief that their lives were in danger. That belief was not formed recklessly or negligently. As a result, the use of deadly force by PFC Willson and Cpl. Streadwick was justified and is not subject to criminal prosecution.