

REPORT OF THE ATTORNEY GENERAL  
PROBATION & PAROLE DEPARTMENTAL SHOOTING

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## THE SCOPE OF THE INVESTIGATION

This is the final report of the Delaware Department of Justice on the use of deadly force against Jeffrey Krahn by Probation and Parole Officers Scott Meixell and Christopher Albence on April 2, 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 both officers and civilian witnesses who were at the scene along with a statement from Jeffrey Krahn. 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 Attorney General'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 officer's actions complied with any departmental policies or procedures concerning the use of force set by The Department of Correction or whether, with the benefit of hindsight, the officers could have proceeded differently. This is a matter of a separate internal investigation being undertaken by The Department of Correction. 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 Jeffrey Krahn. 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 April 2, 2008, at approximately 7:42 PM, Probation and Parole Officers Meixell and Albence were on duty, seated in the Seasons Pizza Restaurant, when Jeffrey Krahn entered the dining area of the restaurant with a female later identified as his wife, Christina Winter. Krahn and Winter were seated in the booth next to the officers. Albence recognized Krahn as he had previously supervised him as a probationer and knew his record as an absconder. He also knew Krahn was currently wanted by New Castle County Police for domestic related felonies. This entire scene is captured on the restaurant's video. The video clearly shows Krahn being seated and then sitting with his head down so as to hide his face.

Krahn then got up from the table alone, and walked towards the exit leaving the scope of the video. Officers Meixell and Abence then got up from the table and followed Krahn. Krahn proceeded into the restaurant's south parking lot, which runs perpendicular to Route 13 south bound. Krahn then enters a Honda SUV, later determined to be owned by his wife's father. Most of this parking lot scene is also captured by another outdoor surveillance video. Officer Meixell approaches Krahn from the driver's door with gun drawn, identifies himself and orders Krahn out of the vehicle. Krahn does not comply and Meixell attempts to open the driver's door. The vehicle is running at this time. Krahn then turned to look out the rear window and quickly accelerated backwards. At this time, Albence was walking behind the vehicle enroute to the passenger side. Meixell seeing Albence directly behind the vehicle caused him to fear for Albence's life so he fired one shot into the vehicle tire.

At this point, Albence is directly behind the vehicle with gun drawn. The video clearly shows the vehicle moving dangerously backwards, towards Albence. Albence stated that in fear of his life he fired one shot through the rear window as the vehicle pushes him back. The vehicle then started forward turning in an easterly direction with Meixell directly in front. At this point, Albence fired two more shots, one entering the rear window, and one striking the left rear side panel of the vehicle body.

As the vehicle starts easterly, Meixell was directly in front of the vehicle path. Meixell, to avoid being struck, jumped onto the vehicle hood. Meixell then fired three rounds into the driver's side windshield while perched on the hood. The projectiles entered just left of the steering wheel and struck the dashboard and steering wheel. It was later determined that bullet fragments also struck Krahn in the arm and leg. The vehicle then proceeded forward, and turned left into a north bound direction. This movement along with the speed threw Meixell off the vehicle and into an adjacent curb where he struck his head incapacitating him. The vehicle proceeded around the restaurant lot as Albence fired one last shot that missed. The vehicle then fled via the south exit of the parking lot sideswiping a civilian vehicle. This is captured by the same surveillance video as the initial parking lot contact.

### CONCLUSION

Section 464 of Title 11 of the Delaware Code generally defines the legal use of force in self protection cases. It provides that the use of force upon another person is justified when the individual using the force believes that it is immediately necessary for the purposes of protecting himself against the use of unlawful force by the other person. The law also provides that using deadly force is justified if the person using the force believes that such is necessary to protect himself against death or serious physical injury. Under Delaware Law, it is the subjective state of mind of Officers Meixell and

Albence which is of critical importance in determining whether their use of deadly force was justifiable in this case. The specific factual issue is whether Officers Meixell and Albence actually believed at the time that they intentionally fired their weapons that such action was necessary to protect themselves from death or serious physical injury, provided however, that the 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.

Furthermore, Section 465 of Title 11 of The Delaware Code generally defines the use of force for the protection of others. It provides that the use of force upon or toward the person of another is justifiable to protect a third person when the force would have been justified under § 464 of this title in using such force to protect the defendant against the injury the defendant believes to be threatened to the person whom the defendant seeks to protect; and, under the circumstances as the defendant believes them to be, the person whom the defendant seeks to protect would have been justified in using such protective force

After a thorough investigation and review of all the statements, reports and other evidence described above, it is the conclusion of the Office of the Attorney General that, as a matter of Delaware Law, Officers Meixell and Albence use of deadly force was justified in this case. At the time the officers fired their weapons, Krahn was resisting lawful arrest and in doing so, drove directly towards both officers. Officer Meixell believed that the use of deadly force was immediately necessary to prevent serious injury or death to himself and also to his partner. Officer Albence, also believed that the use of deadly force was immediately necessary to prevent serious injury to his partner and subsequently to himself. The investigation of the facts and circumstances of the shooting fully support the reasonableness of those beliefs, and that it was not formed recklessly or negligently. As a result, Officers Meixell and Albence use of deadly force was justifiable under the circumstances and is not subject to criminal prosecution under Delaware Law.