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JOSEPH R. BIDEN, III
ATTORNEY GENERAL

September 28, 2010

Colonel Michael McGowan
New Castle County Police Department
3601 North DuPont Highway
New Castle, DE 19720

RE: AG Case #17-09-01-0335 Police Use of Deadly Force
Subject: Corey Croom
Officers: Detective Brian Grant and Officer Kevin Woerner
Date of Incident: October 8, 2009

Dear Colonel McGowan:

The Delaware Department of Justice has completed its investigation and review of the use of deadly force by Detective Brian Grant and Officer Kevin Woerner on October 8, 2009. As a result, the officers' 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. A copy of my report is attached. Please contact me if you have any concerns or questions.

Sincerely,


Timothy F. Mullaney, Sr.
Deputy Attorney General

TPM/mam
Enclosure

REPORT OF THE DELAWARE DEPARTMENT OF JUSTICE
NEW CASTLE COUNTY POLICE USE OF DEADLY FORCE

SUBJECT: Corey Croom

OFFICERS: Brian Grant and Kevin Woerner

October 8, 2009

By: Timothy Mullaney Sr. 
Deputy Attorney General

Date: September 24, 2010

SCOPE OF THE INVESTIGATION

This is the final report of the Delaware Department of Justice on the use of deadly force against Corey Croom by Detective Brian Grant and Officer Kevin Woerner of the New Castle County Police Department on October 8, 2009. Special Investigator Anthony R. Davolos conducted the investigation. Deputy Attorney General Timothy Mullaney, Sr. supervised the investigation and review of the use of force for the Department of Justice. Statements were taken from police officers at the scene. They also reviewed physical evidence, reports written by officers who responded to the scene or otherwise participated in the investigation, witness interviews, photographs, and medical records.

PURPOSE OF THE ATTORNEY GENERAL'S INVESTIGATION

The Department of Justice's (DOJ) investigation of police shootings serves a specific but limited purpose. The DOJ determines whether a police officer's use of deadly force constitutes a criminal act. The DOJ 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 the departmental policies or procedures concerning the use of force set by the New Castle County Police Department (NCCPD) 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 NCCPD. The only purpose of the DOJ's investigation of this shooting is to determine whether the officers committed a crime when he used deadly force against Corey Croom. One of the issues that must be considered in any intentional shooting is whether the use of deadly force was justified under all of the circumstances.

FACTS OF THE INVESTIGATION

On Thursday, October 8, 2009 at 0600 hours, two NCCP Swat Teams and other officers executed a search warrant at the residence of Corey Croom, Apartment B, 732 Peachtree Road, Claymont, Delaware. The warrant was the result of an incident that occurred on September 22, 2009 in which Croom allegedly fired a gun at a neighbor in the Apartment Complex. Warrants charging Croom with Reckless Endangering 1st and Possession of a Firearm During the Commission of a Felony were obtained. Due to the investigating officer's assessment of Croom's propensity for violence, the SWAT teams

were employed for the execution of the arrest and search warrant. The SWAT operation consisted of Team 1, assigned to "breach and entry" at the exterior sliding glass door and Team 2, assigned to the interior front door of the same apartment as backup. On October 8th at 0602 hours, RECOM acknowledged the arrival of the teams at the apartment complex. Several minutes later, after the teams were in place at their respective assignments, the order was given to make entry into Croom's apartment.

SWAT Team 1 used a "break and rake" device to remove the sliding door glass to Croom's apartment. As glass was being removed, officers began to announce "County Police search warrant" and a member of the entry team deployed a "flash/bang" diversionary device several feet inside the cleared sliding glass doors. The SWAT Team 1 made entry with Grant entering first and Woerner entering fourth. There were a total of six officers on the entry team. The team members continued to shout "County Police" as they entered into the apartment living room. Within seconds of entry, Officer Grant was the first to observe Croom as he stood in the hallway at the threshold of the living room. According to Grant and another officer, Croom was holding a gun in his hand and pointed it at Grant. Grant yelled gun to alert his teammates. Grant and the other officer advised that Croom ran from the hallway into the first bedroom on their right, disappearing briefly. It is believed that at this time, Croom threw his handgun under a mattress on the floor in that bedroom. Seconds later Croom exits the bedroom. Grant believes Croom is still armed, and fires four shots from his 9 mm handgun striking Croom three times. Woerner fires one shot from his .223 caliber rifle striking Croom once. Croom fell into the bathroom, directly across from the bedroom he exited. Croom was administered first aid at the scene by a paramedic who accompanied the SWAT teams. Croom died from the wounds he received. A search of the premises revealed a 40 caliber SIG Arms S&W pistol located under the center of a mattress in the first bedroom where Croom exited. It is later determined the gun was reported stolen from Chester, Pennsylvania.

Each officer on the entry team has a specific assignment upon entry and would be focused towards that area of assignment. This would account for some of the entry team not seeing the subject brandishing a weapon.

Officer Brian Grant was interviewed on October 9, 2009 and re-interviewed on March 18, 2010. Grant advised that he was the first to enter the apartment carrying a shield in his left hand and 9mm pistol in his right hand. Grant advised that he announced "County Police search warrant". He moved into the center of the living room and observed Croom coming down the hallway, stopping abruptly at the entrance to living room. Grant advised that Croom was armed with a handgun and pointed it at him. Grant then yelled "gun" multiple times. Grant stated he did not have a clear shot at that time because of the possibility that other apartment occupants may be in line of fire. As Grant yelled for subject to "get down", subject fled into a room by the entrance to the living room. Subject reappears within seconds from the room. Grant stated that he saw a weapon in his right hand and immediately opened fire, as did Woerner.

Officer Kevin Woerner was interviewed on October 9, 2009 and re-interviewed on March 24, 2010. Woerner advised that he was the fourth officer to enter the apartment. He heard Grant yell "County Police search warrant" upon entry and that he also yelled "County Police search warrant" upon entry. Woerner heard Grant yell "gun" and immediately looked to Grant to ascertain where he saw the threat. Woerner saw that Grant was looking down the hallway. Woerner looked down the hallway and saw a leg and red boxer shorts (Croom). Woerner saw Croom with something in his hand, which at a subsequent interview he identified as a gun. At this point Grant and Woerner both fired their weapons at Croom. Woerner did not see Croom go into bedroom.

CONCLUSIONS

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, Detective Brian Grant and Officer Kevin Woerner's use of deadly force was justified in this case. 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 such 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 Detective Grant and Officer Woerner's subjective state of mind which is of critical importance in determining whether their use of force was justifiable. The specific factual issue is whether Detective Grant and Officer Woerner 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 Detective Grant and Officer Woerner 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.

At the time that Detective Grant and Officer Woerner fired their weapons, they believed that Corey Croom was armed and posed a threat of death or serious physical injury to themselves and other officers. Detective Grant and one other officer initially saw Corey Croom brandish a handgun. The other officer took evasive action to provide cover for him and did not see Corey Croom go into a side (bedroom) room. Detective Grant advised that after he yelled "Gun" multiple times that Corey Croom ran into a room off the hallway for a very short period of time. Upon emerging from the room, it was both Detective Grant and Officer Woerner's belief that Corey Croom was armed and preparing to shoot at them and their fellow officers. Officer Woerner did not initially

see Corey Croom, as he was clearing another part of the room. Officer Woerner's was first alerted to Croom's presence by Detective Grant yelling "Gun". Officer Woerner looked to Detective Grant to ascertain where the threat was coming from and observed Detective Grant looking down the hallway area. At this time Officer Woerner observed Croom for the first time. It was his belief that Croom was still armed and posed a threat to him and other officers. It should be noted that Croom was not armed at the time he was shot. It appears that when he went into the room off the hallway Croom threw the gun under the mattress. Notwithstanding the lack of a weapon, the investigation of the facts and circumstances support the reasonableness of the officers' beliefs that Croom was armed and that it was not formed recklessly or negligently. As a result, Detective Grant and Officer Woerner's use of deadly force was justified and not subject to criminal prosecution under Delaware law.