

**FINAL REPORT OF THE DEPARTMENT OF JUSTICE
WILMINGTON POLICE DEPARTMENT USE OF DEADLY FORCE**

**SUBJECT: Taje Beasley
OFFICER: M/Cpl. Darriel G. Tynes**

DATE OF INCIDENT: April 21, 2016

Dated: March 7, 2017

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 Master Corporal Darriel G. Tynes (“M/Cpl. Tynes”) of the Wilmington Police Department (“WPD”) against Taje Beasley (referred to hereinafter as “the subject” or “Mr. Beasley”).¹ Investigators from the Office of Civil Rights and Public Trust examined the crime scene and also reviewed evidence, reports written by officers who responded to the scene and witness interviews. Attorneys with the Office of Civil Rights and Public Trust reviewed the use of force for the Department of Justice.

Purpose of the Department of Justice Report

The Department of Justice determines whether a law enforcement officer’s use of deadly force constitutes a criminal act. The Department of Justice 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 WPD or whether, with the benefit of hindsight, the officer could have proceeded differently.

Facts

On April 21, 2016 at approximately 6:42 p.m., WILCOM dispatched a report of a person with a gun.² The subject was described as a black male with a light complexion, 14-16 years old, wearing a blue jacket with lime green stripes, and blue shorts. The dispatcher indicated that the gun was reported to be in the subject’s right pants pocket. The dispatcher also advised that the subject was last seen travelling west on 2nd Street from King Street. Several WPD units responded to the area in an attempt to locate the subject. The first two officers to report in were driving their fully marked patrol vehicle in the 499 block of West 4th Street when they observed a subject who matched the description provided by WILCOM walking westbound on West 4th Street. The officers notified WILCOM that they had located the subject at the intersection of West 4th and

¹ The Department of Justice issued a preliminary report on January 5, 2017 to notify M/Cpl. Tynes and the public of our conclusion. However, as Mr. Beasley was still being prosecuted for the offenses related to the incident, the preliminary report did not include detailed factual findings. The charges have now been adjudicated and the DOJ issues this final report.

² The initial report was made by a concerned citizen who saw the subject walking along Second Street as he waited in his car to pick up his son at the bus station. The citizen reported that the subject was acting “cagey” which the citizen described as nervous and bobbing. As the subject passed by him, the citizen observed the subject’s hand on his right coat pocket and the distinct shape of a gun in the subject’s right pants pocket. The citizen looked down to avoid eye contact but kept the subject in his peripheral vision and looked up as the subject passed. The citizen provided a detailed description of the subject and reported seeing the black handle of a gun sticking out of the subject’s pocket and the shape of a gun pointing down deeper into the pocket.

Tatnall Streets. As the officers neared the subject and stopped their patrol vehicle, the subject fled on foot. The officer in the passenger side exited the to pursue the subject on foot while the driver stayed in the vehicle in an attempt to intersect the subject's direction of travel. The officers broadcast the foot pursuit over WILCOM.

The officer on foot chased the subject for several blocks on West 4th Street, running southwest across West 4th Street towards the intersection of West 4th and North West Streets. The driver of the patrol vehicle attempted to follow the subject but was eventually blocked by other assisting patrol units so he exited his vehicle and began running to assist his partner in the foot pursuit.

M/Cpl. Tynes and his partner Corporal Hector Tabron ("Cpl. Tabron") heard the subject's direction of travel as it was broadcast over WILCOM during the foot pursuit. M/Cpl. Tynes and Cpl. Tabron were in full uniform and driving a fully marked patrol vehicle. As they approached the intersection of West 3rd and North West Streets, M/Cpl. Tynes made the decision to standby the intersection as it appeared from the radio transmissions that the subject was headed towards their direction.

While standing by, M/Cpl. Tynes and Cpl. Tabron observed a subject matching the description provided by WILCOM a few minutes earlier. The subject was running southbound on the sidewalk in the 399 block of North West Street. While M/Cpl. Tynes was still in the patrol vehicle, Cpl. Tabron exited the vehicle to pursue the subject who was now running towards him. Cpl. Tabron reported that as the subject ran, the subject began fumbling with an unknown object in his waistband. Officer Tabron stated that he drew his duty issued weapon and commanded the subject to "STOP" and told the subject "SHOW ME YOUR HANDS." Cpl. Tabron stated that the subject made eye contact with him but refused to comply and took off running, making a quick turn into the 499 block of West 3rd Street and running westbound in front of a group of row homes.³

As Cpl. Tabron chased Mr. Beasley, M/Cpl. Tynes placed their patrol vehicle in park and exited the vehicle to assist.⁴ M/Cpl. Tynes reported that he observed the subject running and reaching underneath his jacket into his pants trying to "yank" something out. The subject ran in front of the cars parked in the driveway of the 499 block of homes with Cpl. Tabron right behind him. M/Cpl. Tynes was running in the street to the rear of the parked cars and parallel to the subject

³ Two civilian witnesses who were in their vehicle observed Cpl. Tabron's initial interaction with Mr. Beasley and confirmed that the officer gave verbal commands to Mr. Beasley to stop and that Mr. Beasley looked at the officer and then kept running. The driver of the vehicle reported that Mr. Beasley appeared to be holding something in the right side of his pants as if trying to keep it from falling out. A third juvenile witness was outside of his house when he saw officers running and heard commands. He heard the officers order Mr. Beasley to "drop the gun," then he observed one of the officers discharge his weapon.

⁴ The patrol car was not fully engaged in park and drifted into another parked vehicle. The two witnesses who observed the initial interaction had their attention drawn away by the drifting patrol vehicle and did not observe the shooting but heard the shot.

and Cpl. Tabron. As he ran, the subject got cornered by the wall protruding out from the residence at 401 West 3rd Street and tripped and fell. M/Cpl. Tynes reported that the subject got up, pulled out his weapon and aimed it towards him. M/Cpl. Tynes fired one round from his duty issued weapon striking the subject in his right knee.⁵ Almost simultaneous with M/Cpl. Tynes discharging his weapon, Cpl. Tabron tackled Mr. Beasley.⁶ Cpl. Tynes went to assist and both officers reported that Mr. Beasley continued to resist as they attempted to handcuff him and place him in custody.⁷ M/Cpl. Tynes and Cpl. Tabron had Mr. Beasley in custody as other officers converged on the scene to assist. At approximately 6:49 p.m. arriving officers advised WILCOM that shots had been fired and requested an ambulance for Mr. Beasley and for M/Cpl. Tynes who had suffered a medical emergency and collapsed.⁸

A black semi-automatic Walther P99 DOS Airsoft BB gun was located in the bushes by Mr. Beasley's foot. The barrel of the gun had cut or saw marks apparently from where the orange safety cap was removed.

Conclusion

After a thorough investigation and review of all statements and reports, it is the conclusion of the Department of Justice that the State could not prove beyond a reasonable doubt that Wilmington Police Department M/Cpl. Tynes committed a crime when he used deadly force against Mr. Beasley. 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

⁵ A witness who was in his bedroom on the second story of his house facing the street heard someone yell "DROP THE GUN, DROP THE GUN." He looked out of the bedroom window and observed an officer with his firearm in the ready position and then heard a pop. The officer was standing in the street and was the only officer the witness could see at that time. He saw other officers after the shot and one appeared to be bent over with his hands on his knees. He did not believe that the officer who was bent over was the same officer he saw in the street but he was not sure. He also heard the subject yelling "aww my knee."

⁶ Another WPD officer engaged in the foot pursuit, Patrolman Jhalil Akil, reported hearing commands of "show me your hands, show me your hands" and observed Officer Tynes fire his weapon.

⁷ During the struggle with Mr. Beasley, Cpl. Tabron's weapon apparently malfunctioned as he attempted to holster it resulting in the ejection of one live round that was recovered at the scene.

⁸ Mr. Beasley was transported to Christiana Hospital where he was treated for the gunshot wound to his knee. M/Cpl. Tynes was transported to the Wilmington Hospital where he was treated and released.

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 M/Cpl. Tynes’ subjective state of mind that is of critical importance in determining whether his use of force was justifiable. The specific factual issue is whether M/Cpl. Tynes actually believed at the time that he intentionally fired his weapon that such action was necessary to protect himself or others from death or serious physical injury, so long as the officer 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.

Multiple officers were attempting to apprehend a suspect who was reported to be armed with a gun. M/Cpl. Tynes and Cpl. Tabron located Mr. Beasley and commanded him to stop. They observed him fumbling at his waistband as he ran as if trying to “yank” something out. Mr. Beasley ignored the commands and continued to run until he cornered himself and tripped and fell. M/Cpl. Tynes provided a voluntary statement in which he said that he discharged his weapon because he was in fear for his life when he saw Mr. Beasley pull out a gun and point it at him. Multiple witnesses corroborated the officers’ accounts of the events leading up to the shooting including the command to drop the gun just before M/Cpl. Tynes discharged his weapon.

The investigation of the facts and circumstances found evidence that would support a defense of justification, if made by M/Cpl. Tynes, because he believed that his life and/or the lives of others were in danger, and that belief was not formed recklessly or with criminal negligence. As a result, the use of deadly force by M/Cpl. Tynes is not subject to criminal prosecution.