

**FINAL REPORT OF THE DEPARTMENT OF JUSTICE  
USE OF DEADLY FORCE BY NEW CASTLE COUNTY POLICE DEPARTMENT**

**SUBJECT: LEROY BROWN**

**OFFICERS: DAVID CHRISTOPHER**

**DATE OF INCIDENT: MARCH 29, 2017**

**Dated: April 9, 2018**

## **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 Officer David Christopher (hereinafter referred to as “Officer Christopher”) from the New Castle County Police Department against Leroy Brown (referred to hereinafter as “Mr. Brown”). Investigators from the Office of Civil Rights and Public Trust examined the crime scene and reviewed evidence, including surveillance footage, reports written by officers who responded to the scene, the autopsy, and witness interviews. Attorneys with the Office of Civil Rights and Public Trust reviewed this use of force incident 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 involved officer’s actions complied with departmental policies or procedures.

## **Facts**

### *Events in Philadelphia*

On March 29, 2017, at 5:39 p.m., a call was placed to Philadelphia Police that identified Mr. Brown, by name, provided a description of his clothing and stated he was armed with a gun.<sup>1</sup> Philadelphia Police responded to the location, which was within their jurisdiction.<sup>2</sup> Mr. Brown was standing outside of a Dodge Caravan. The Caravan was rented by an adult occupant of the car, (hereinafter referred to as “Witness 1”). At the time that Philadelphia Police arrived, the vehicle included a total of six occupants; Mr. Brown, Witness 1, and four minors.<sup>3</sup> Witness 1 was a friend of Mr. Brown’s and had traveled with him and two of the four minors from Delaware to Philadelphia.

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<sup>1</sup> The original call was placed in connection with a domestic incident. According to witness interviews, Mr. Brown he suspected the police were called.

<sup>2</sup> While the facts regarding the events in Philadelphia are included herein as relevant background for this report, this report is limited in its conclusion to the actions of Officer Christopher of New Castle County Police.

<sup>3</sup> Interviews of the two older children were conducted by the Children’s Advocacy Center. These interviews focused on events in the City of Philadelphia, as the minors were not present during the relevant events in the State of Delaware. The information provided during these interviews was consistent with the statements of Witness 1 and Witness 2. Two of the children were Witness 1’s and the other two were children of a friend in Philadelphia.

As Philadelphia Police approached the Caravan, Mr. Brown entered the passenger seat, pulled Witness 1 out of the driver's seat, and sat in the driver's seat. Mr. Brown began to drive away, despite police direction to stop. An altercation ensued. Philadelphia Police discharged a firearm, striking Mr. Brown. He was wounded in the chest and arm. Mr. Brown drove the van, erratically away from the scene. Witness 1 was upset with Mr. Brown for not remaining on-scene with Philadelphia Police, as she felt it put the occupants of the vehicle at risk. According to Witness 1, the vehicle broke down due to the altercation and flight from Philadelphia Police.

Mr. Brown located a Dodge Avenger with the keys in it. Mr. Brown directed the occupants of the Caravan to enter the Avenger. Mr. Brown drove the stolen Avenger to the State of Delaware. All six occupants of the stolen Dodge Avenger made their way to New Castle County, Delaware, arriving at Witness 2's home.

### *Events in Delaware*

Mr. Brown initially advised Witness 2 that he was shot by unnamed individuals. Shortly thereafter, Mr. Brown told Witness 2 he tried to run from the police and they shot him. Witness 2 repeatedly attempted to convince Brown to go to the hospital, but he declined, saying he did not want to get arrested.<sup>4</sup> The four minors stayed with Witness 2. Mr. Brown and Witness 1 left Witness 2's home in the stolen Avenger and traveled to a residence within Coachman's Manor in New Castle, Delaware.

After speaking with Mr. Brown, Witness 2 went to New Castle County Police Department (hereinafter "NCCPD") to report what she was told by Mr. Brown. Witness 2 did not know who or where the parents of two of the children in her care were located. While at NCCPD, Witness 2 was interviewed. Witness 2 also provided investigators with a cell phone video recording, which documented part of the conversation with Mr. Brown.

NCCPD were able to confirm the information supplied by Witness 2 with Philadelphia Police. Philadelphia Police asked NCCPD for assistance to go to Coachman's Manor and attempt to locate Mr. Brown. NCCPD responded to Coachman's Manor Apartments, where they located the stolen Dodge Avenger in a parking space. On-scene officers included Sergeant Guzevich, Officer Phillips, Officer Tanyer, Officer Williams and Officer Christopher. Sergeant Guzevich, Officer Phillips and Officer Christopher observed blood on the vehicle. Sergeant Guzevich, Officer Williams and Officer Tanyer also observed blood within the common areas of the apartment building, leading to Witness 1's apartment.

Once Witness 1 and Mr. Brown entered the apartment in Coachman's Manor, efforts were made to stop Mr. Brown's bleeding. Witness 1 and Mr. Brown were within the rear bedroom. Officer Tanyer stated NCCPD attempted to locate Mr. Brown, because he might be bleeding out as a result of his injuries due to the amount of blood in the common areas of the apartment. After knocking and announcing their presence, the officers received no response and forced entry. Mr. Brown then jumped out of the third-floor bedroom window.

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<sup>4</sup> Mr. Brown had multiple active warrants in the State of Pennsylvania, according to the National Crime Information Center (NCIC).

Surveillance video from the apartment complex captured Mr. Brown running toward the driver's side of the parked Dodge Avenger, with Officer Christopher following behind, with his gun drawn. The video then showed Officer Christopher running toward the passenger side of the Dodge Avenger. There were cars parked on either side of the Avenger.

After three seconds, the Avenger abruptly backed out and struck a parked NCCPD patrol car. Officer Christopher's body was thrown from the passenger-side of the Dodge Avenger, and he crashed into the struck patrol vehicle. The Dodge Avenger moved abruptly forward and hit the car which had been parked next to it. Officer Christopher was behind the vehicle, on the passenger side. The car reversed again, striking the patrol car a second time before driving off.

The surveillance video described above is consistent with the statement of Witness 3, who is a resident of Coachman's Manor apartment complex. Witness 3 looked outside of her window by happenstance. During her interview, she described seeing a little dark car hit a police patrol car, twice. Witness 3 saw the officer step out of the car's path and then begin shooting. Witness 3 could not see inside the dark car. When asked how far the officer was in the path behind the dark car, Witness 3 estimated the officer was four to five feet away.

#### *Interview of Officer Christopher*

After arriving at the apartment complex, Officer Christopher located the unoccupied Dodge Avenger with PA tags in the parking lot of the apartment complex and saw dried blood, along the driver's side door and window. Officer Christopher's car was parked, perpendicular, directly behind the Avenger. Officer Christopher and Officer Phillips remained outside, one on each entrance to the building, waiting for additional officers to arrive. Officer Christopher remained outside, standing behind a tree, watching the window of the apartment identified as belonging to Witness 1. Officer Christopher can hear the police announcing their presence and sees lights go off and on in the apartment.

Officer Christopher saw Mr. Brown come out of the window of the apartment, hit the ground and begin to run. Officer Christopher ran after him. Officer Christopher saw Mr. Brown hesitate and go toward a fence, but then go toward the passenger side of the Avenger, leaving the door open. Mr. Brown jumped into the car, through the passenger side. Mr. Brown began fumbling with the ignition. Officer Christopher ran to the passenger side door to remove Mr. Brown. Officer Christopher observed Mr. Brown reversed the car and heard the wheels were squealing. Officer Christopher was only partially in the vehicle and held onto the door of the Avenger, his feet left the floor. Officer Christopher tried to stay off the ground after the impact with the patrol car, to avoid being run over. Officer Christopher stated he felt he was either going to be seriously injured or killed during seconds-long interaction with Mr. Brown.

After the impact, Officer Christopher saw the reverse lights flash on the Avenger, while he was still behind the car. Officer Brown fired his department-issued weapon, nine times. The car was struck seven times. Mr. Brown then put the car in drive and sped off.

## *Physical Evidence*

NCCPD located the Avenger, after it crashed into a tree, in a nearby parkland. The vehicle sustained significant damage, including a shattered rear window. Apparent blood was throughout the Avenger. Mr. Brown was transported to Christiana Hospital where he was pronounced dead at 8:38 p.m.

The trajectory analysis reveals the bullets were fired from the rear passenger side of the vehicle. Nine bullets were fired from Officer Christopher's gun. Seven bullets struck the Avenger.

The patrol vehicle which had been struck by the Avenger was pushed slightly up onto the curb. The rear, driver's-side wheel of the patrol car had come off the axle. The body of the patrol vehicle was dented in the area of the wheel and the windows were also smashed. Officer Christopher had white paint transfer on the back of his uniform, which is consistent with his statement and the video, after being thrown from the Avenger onto the white patrol car. Additionally, apparent white paint and scuffing was seen on Officer Christopher's equipment.

The autopsy revealed Mr. Brown had been struck a total of five times between both incidents. The autopsy revealed a gunshot wound to the chest, which the medical examiner has described as a fatal wound. The Medical Examiner has opined that the gunshot wound to the chest was not likely sustained in Philadelphia, as Mr. Brown would not have been able to drive to Wilmington with this wound. There was no evidence of close-range fire.

## **Conclusion**

After a thorough investigation and review of all statements, surveillance, and reports, it is the conclusion of the Department of Justice that, as a matter of Delaware law, the use of force by New Castle County Police Officer David Christopher was not a criminal act because the use of such force against Mr. Brown was justified. Title 11 Section 464 of the Delaware Code 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."

Under Delaware law, Officer Christopher's subjective state of mind is of critical importance in determining whether his use of force was justifiable. The specific factual inquiry is two-pronged. The first question is whether Officer Christopher actually believed, at the time he intentionally fired his weapon, that such action was necessary to protect himself or others from death or serious physical injury. The second question is whether Officer Christopher was 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. 11 *Del. C.* § 470(a).

After a series of reckless acts which endangered the lives of several people, Mr. Brown jumped from the third floor bedroom window to again flee police. In the seconds before Officer Christopher's use of deadly force, Officer Christopher was hanging onto the car door when Mr.

Brown rapidly and recklessly accelerated out of the parking space. Mr. Brown struck a patrol car, flinging Officer Christopher through the air. Mr. Brown abruptly accelerated the vehicle, striking a parked car. He then, reversed again, striking the patrol car. This time, the Avenger was within mere feet of Officer Christopher's body. At that moment, Officer Christopher had reason to believe that Mr. Brown would use the vehicle as a deadly weapon. The trajectory analysis of the seven bullets which struck the Avenger was consistent with the statement of Officer Christopher, the statement of Witness 3, and the video surveillance. Based on the surveillance, physical evidence and witness interviews, the belief by Officer Christopher, that his life was in danger, was justified. That belief was not formed recklessly or negligently. As a result, the use of deadly force was justified and therefore not subject to criminal prosecution.