

REPORT OF THE DELAWARE DEPARTMENT OF JUSTICE  
NEW CASTLE COUNTY POLICE SHOOTING

APRIL 18, 2008

By: Timothy Mullaney  
Deputy Attorney General

Date: July 7, 2008

## **SCOPE OF THE INVESTIGATION**

This is the final report of the Delaware Department of Justice on the use of deadly force against Michael Good by Ptl. Keith Gautier of the New Castle County Police on April 18, 2008. Mr. Good survived the injuries sustained in this incident. Special Investigator Robert Carmine conducted the investigation. Deputy Attorney General Timothy Mullaney 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 investigation of police shootings serves a specific but limited purpose. The Department determines whether a police 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 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 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 New Castle County Police. The only purpose of the Department's investigation of this shooting is to determine whether the officer committed a crime when he used deadly force against Michael Good. 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 April 18, 2008 at approximately 10:00 PM, the emergency dispatch center (Recom) received a call from a resident of Croyden Drive in Glendale reporting that a neighbor at #1 Croyden Drive was firing a shotgun in his back yard. The caller advised that the subject was possibly intoxicated and this type activity had happened before at this address. Officers were dispatched to the area in response to the citizen's call. While enroute, one officer, Ptl. Cote, recalled having been at this address before for the same type complaint and in fact had arrested the resident, Michael Good, for firearms violations. He supplied Recom with the cell phone number of Mr. Good.

Arriving officers set up a perimeter around the around the scene with Patrolman Gautier and Cote taking up positions across the street in the driveway of # 4 Croyden Drive alongside and behind a truck and van parked in the driveway. Other officers informed area residents to stay in their basements or the backs of their houses for safety purposes.

Other officers on perimeter at the rear of the house observed two white males in the house, one with a bandana across his face and holding a shotgun. Calls were made to the residence by police personnel in an attempt to get the persons inside the residence to come out peacefully. Mr. Good would not acknowledge the calls but hung up on the officers. The second subject in the house received one of the calls and decided to exit the residence through the front door. He obeyed police officers commands and was held across the street for his safety.

Officers over the next few minutes heard two to three gunshots coming from within the residence, and then Michael Good came out the front door smoking a cigarette and carrying a shotgun. Officer Cote ordered Good to drop the weapon and walk toward the street at which time Good fired one round from his shotgun. Good was again ordered to drop the gun and this time he fired a second round at the officers in the driveway of #4 Croyden Place. Pellets from this shotgun blast struck the front of the residence behind Officers Cote and Gautier. As Cote again ordered Mr. Good to put down the shotgun, Good, while still advancing toward the officers fired a third time at the officers, this time striking the vehicle that the officers were behind as well as the house behind the officers.

It was at this time that Ptl. Gautier, in fear for his life and that of Officer Cote's, fired one round from his rifle striking Good in the abdomen. Officers approached Good and removed a knife from his waist band and moved the shotgun out of reach. Emergency first aid was rendered by the ambulance crew which had been standing by and Good was transported to the Christiana Hospital where he was admitted and treated for the gunshot wound.

He was later arrested and arraigned on a series of charges including two counts of attempted homicide of a police officer, three counts of reckless endangering and possession of a deadly weapon during the commission of a felony.

### **CONCLUSIONS**

With respect to Patrolman Keith Gautier, 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 force is necessary to protect himself against death or serious physical injury. Under Delaware Law, it is the subjective state of mind of Ptl. Gautier that is of

critical importance in determining whether his use of deadly force was justifiable in this case. The specific factual issue is whether Ptl. Gautier actually believed at the time that he intentionally fired his weapon that such action was necessary to protect himself from death or serious physical injury, provided however, that 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.

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, Ptl. Gautier's use of deadly force was justified in this case. At the time Ptl. Gautier fired his weapon, Michael Good was advancing upon him and Ptl. Cote and was firing a shotgun in their direction. Michael Good had refused repeated commands to lay down his weapon and in fact directed deadly force at the officers trying to apprehend him. Ptl. Gautier believed that the use of deadly force was immediately necessary to prevent serious injury or death to himself and to Officer Cote. The investigation of the facts and circumstances of the shooting fully support the reasonableness of that belief and that it was not formed recklessly or negligently. As a result, Ptl. Gautier's use of deadly force was justifiable under the circumstances and is not subject to criminal prosecution under Delaware law.