

**FINAL REPORT OF THE DELAWARE
DEPARTMENT OF JUSTICE**

**USE OF DEADLY FORCE BY THE
DELAWARE STATE POLICE**

SUBJECT: ARNOLD AZAMAR, JR.

**TROOPERS: SGT. JOHN WILSON and
CPL. ERIC SACCOMANNO**

DATE OF INCIDENT: 6/4/2024

SCOPE AND PURPOSE OF THE INVESTIGATION

This is the final report of the Delaware Department of Justice, Division of Civil Rights and Public Trust (“DCRPT”) arising out of the investigation into the use of deadly force by Sgt. John Wilson and Cpl. Eric Saccomanno of the Delaware State Police used against Arnold Azamar, Jr. (“Azamar”). Per Title 29 § 2553 of the Delaware Code, DCRPT shall “[i]nvestigate the use of deadly force incidents by law enforcement...for the purpose of determining whether such use of force was justified as a matter of law.”¹ Independent of any administrative or criminal investigation conducted by any law enforcement agency, DCRPT investigators and attorneys reviewed evidence consisting of video footage, witness interviews, police interviews, dispatch records, scene photographs, forensic evidence and analyses, and medical records.

This investigation is limited to determining whether a law enforcement officer’s use of deadly force constitutes a criminal act. The purpose of this investigation is not to establish, enforce, or evaluate 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 determining whether Sgt. Wilson’s and Cpl. Saccomanno’s actions complied with the agencies internal policies concerning the proper use of deadly force.

FACTS

On June 4, 2024, Arnold Azamar, Jr. arrived at Harmony at Kent, a senior living facility, to visit his mother.² Azamar had previously been banned from the property in part due to aggressive behavior. Despite the ban, Azamar was permitted to finish having dinner with his mother. At the conclusion of dinner, there was a dispute over Azamar remaining or possibly taking his mother with him. Staff from Harmony at Kent, and William Whitehead (“Whitehead”), an off-duty maintenance worker who had previously dealt with Azamar, called 911.

Whitehead arrived at the facility with his 8-year-old son. He asked Azamar to leave, leading to a verbal argument. Whitehead called 911 and asked for an immediate response because Azamar was threatening to remove his mother from the property. A further confrontation ensued between Whitehead and Azamar. Azamar punched Whitehead and ran to his white SUV in the parking lot. Whitehead ran after him. Azamar pulled a pistol from the inside of the SUV and began waving it around. Azamar’s cousin, Stuart Outten (“Outten”), pulled into the parking lot, having been alerted to the situation by family. Azamar fired at and struck Outten’s car, causing Outten to immediately flee. Azamar then continued to fire and struck Whitehead, who collapsed in the parking lot.

Additional 911 calls were placed by staff and other witnesses, including Outten. Azamar’s mother wandered out into the parking lot with Azamar. Dispatch continuously updated responding officers based on information relayed by 911 callers, including that Whitehead had been shot and

¹ 29 Del. C. § 2553(a)(3).

² Azamar’s mother was diagnosed with dementia. Azamar’s sister had power of attorney.

was down in the parking lot, Azamar's mother was with him, and an 8-year-old child was taking cover in the white SUV.

Several troopers from Delaware State Police and officers from Dover Police Department, Probation & Parole, and Wyoming Police Department arrived and took tactical positions around the parking lot, with Sgt. Wilson on the eastern side and Cpl. Saccomanno on the far western side. Despite attempts to persuade Azamar to drop his weapon and seek assistance, he refused. Once Azamar's mother stepped to the side and out of the line-of-fire, Sgt. Wilson fired two shots and Cpl. Saccomanno fired one shot from their rifles. All three shots struck Azamar. Once he was disarmed, life-saving measures were started on Azamar and Whitehead. Both were transported to Bayhealth Kent Campus where they were pronounced deceased.

EVIDENCE

DCRPT investigators and attorneys reviewed evidence consisting of video footage, witness interviews, police interviews, dispatch records, scene photographs, forensic evidence and analyses, and medical records. Although all evidence was reviewed, only the evidence relevant to this report is summarized below.

Surveillance footage from Harmony at Kent shows the initial interactions between Azamar, staff, and Whitehead. The area around Azamar's SUV and the entrance of the parking lot are not visible from the cameras; therefore, no footage of the shooting incidents is available.

Body worn camera footage from the officers on scene was reviewed; however, given the tactical positions taken and distance from the suspect, there is no footage of evidentiary value of the shootings. Some footage shows the positioning of Azamar and his mother in the parking lot prior to the troopers' shots. Additionally, audio confirms that after unsuccessful negotiations with Azamar, two shots followed by one shot were fired, which confirms the accounts given by Sgt. Wilson and Cpl. Saccomanno.

When officers approached Whitehead, he had an apparent gunshot wound to his chest and exhibited no signs of life. An autopsy of Whitehead confirmed that he suffered from two gunshot wounds, including one to his chest, which was the cause of death. The autopsy of Azamar revealed gunshot wounds to his right arm, chest, abdomen, and back. Azamar's cause of death was multiple gunshot wounds to his torso.

Delaware State Police evidence technicians collected ballistic evidence from the shooting scene as well as the pistol held by James and the divisional rifles of Sgt. Wilson and Cpl. Saccomanno. The Delaware State Police Forensic Firearms Services Unit conducted ballistics analysis. A projectile recovered from Whitehead's spine, and 9mm casings found at the scene were determined to have been fired from Azamar's pistol. Two projectiles recovered during Azamar's autopsy were determined to have been fired from the same firearm, although analysis was inconclusive regarding which firearm discharged them.

TROOPER INTERVIEWS

All officers on scene and several civilian witnesses were interviewed. The objective facts and circumstances are considered when determining whether an officer acted reasonably when using deadly force; therefore, considering that no contradictory statements were made, the only summarized interviews are for the troopers who used deadly force.

Sgt. Wilson relayed that troopers were originally informed that there was a trespass in progress at Harmony at Kent, however prior to arriving he heard over the radio that shots had been fired, and someone was “down” in the parking lot. Additionally, it was relayed that there was possibly a second victim inside the facility and an 8-year-old was in the white SUV near the suspect. Sgt. Wilson and other troopers converged and decided to take a slow and tactical approach. Once in position at the tree line, Sgt. Wilson said he could see the suspect, who seemed angry. He heard several attempts by other troopers ordering Azamar to put the gun down. He refused. Azamar took a step backwards and turned towards Sgt. Wilson. At that point, Sgt. Wilson fired his weapon. Azamar remained upright, so Sgt. Wilson fired again, but was unsure if he struck Azamar. Then he heard a third shot from the other direction. According to Sgt. Wilson, he was concerned about the safety of the elderly woman (Azamar’s mother), the 8-year-old in the SUV, the person who had already been shot (Whitehead), any other potential victims, himself, and other troopers.

Cpl. Saccomanno relayed that he was originally alerted to the shooting by another trooper in his unit. He then started hearing radio transmissions that there were shots fired at the nursing home, and one person was shot in the parking lot, and another person was injured inside the facility. When he arrived, troopers and officers from other agencies were already in various positions, but no one was on the west side of the parking lot, so that is where he headed. He could hear the unsuccessful negotiations. He was fearful for the person who was shot, the potential victim in the building, and the 8-year-old that was nearby in the SUV. He could see Azamar with the gun in his hand but was unable to take a shot because the elderly woman (Azamar’s mother) was behind Azamar. Azamar moved away from the elderly woman and as he was taking his shot, he heard two other shots from the east side of the parking lot.

CONCLUSION

The Delaware Department of Justice’s Division of Civil Rights and Public Trust determines whether a law enforcement officer’s use of deadly force constitutes a criminal act for which there is a reasonable belief that a conviction can be obtained.³ When determining the

³ Delaware Department of Justice Criminal Division Policy Manual citing NDAA National Prosecution Standards (2nd Ed. 1991) §§ 43.3; NDAA National Prosecution Standards (4th Ed. 2024, 4-2.2) “While commencing a prosecution is permitted by most ethical standards upon a determination that probable cause exists to believe that a

probability that a conviction can be obtained, the State is always cognizant that it has the burden to prove the crime(s) charged *beyond a reasonable doubt*, a demanding standard. Further, it must also consider the viability of any defenses to the crime(s) charged, and the likelihood of successfully presenting such defenses. Central to any analysis involving an officer's use of force is the applicability of Delaware's "Justification Defenses," which are commonly referred to as its "self-defense laws." These laws are codified in 11 *Del. C.* §§ 464, 465, and 467.

Title 11 § 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] reasonably 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." "[An officer] using protective force may estimate the necessity of such force, under the circumstances that the person believes to exist."⁴ Title 11 § 464(c) through (e) specifically address the use of **deadly force**, stating that it is justifiable "if the [officer] reasonably believes that such force is necessary to protect the [officer] against death [or] serious physical injury[.]"⁵ Subsection 464(e)(2)(C) articulates that law enforcement officers are *not required to retreat, nor refrain from making an arrest or preventing an escape* because the suspect is resisting, to be justified in their use of deadly force in the performance of their duties.

The State must also consider whether the use of deadly force by the officers was justified under 11 *Del. C.* § 465 of the Delaware Code, which involves the use of force for the protection of others.⁶ The same legal principles that apply to self-defense, apply to the defense of others.⁷ Lastly, 11 *Del. C.* § 467 sets forth a justification defense specific to the use of force in law enforcement. It allows officers to use force when they reasonably believe that such force is immediately necessary to make an arrest. Subsection (c) of § 467 limits the circumstances under which an officer may use deadly force to make an arrest or apprehend a fleeing suspect. First, the officer may only use deadly force to make an arrest "if all other reasonable means of apprehension have been exhausted."⁸ Second, the arrest must be for a crime involving physical injury. Third, the use of deadly force must not create a substantial risk of injury to an innocent person. Lastly, the officer "reasonably believes that there is a substantial risk that the person to be arrested will cause death or serious physical injury or will never be captured if apprehension is delayed."⁹

crime has been committed and that the defendant has committed it, the standard prescribes a higher standard for filing a criminal charge. To suggest that the charging standard should be the prosecutor's reasonable belief that the charges can be substantiated by admissible evidence at trial is recognition of the powerful effects of the initiation of criminal charges."

⁴ 11 *Del. C.* § 464(b); See Delaware Superior Court Pattern Jury Instruction 5.11 (2024).

⁵ 11 *Del. C.* § 464(c)-(e).

⁶ "(a) The use of force upon or toward the person of another is justifiable to protect a third person when: (1) The defendant would have been justified under § 464 of this title in using such force to protect the defendant against the injury the defendant reasonably believes to be threatened to the person whom the defendant seeks to protect; and (2) Under the circumstances as the defendant reasonably believes them to be, the person whom the defendant seeks to protect would have been justified in using such protective force; and (3) The defendant reasonably believes that intervention is necessary for the protection of the other person."

⁷ See 11 *Del. C.* § 465.

⁸ 11 *Del. C.* § 467(c).

⁹ *Id.*

Under Delaware law, the objective facts and circumstances must be considered when determining whether the use of force was justifiable against another person. The specific factual inquiry is two-pronged. The first question is whether the officer(s) “reasonably believed,” at the time they intentionally used deadly force, that such action was necessary to protect themselves or others from death or serious physical injury, or to prevent the flight of a suspect where the officer reasonably believed that there was an imminent and substantial risk that the suspect would cause death or serious physical injury to another person. When applied to a person who is a law enforcement officer acting in their official capacity “reasonably believes” means “holds a belief that is reasonable from the viewpoint of a reasonable law enforcement officer” in the same situation under the circumstances.¹⁰ The second question is whether the officer 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

Sgt. Wilson’s and Cpl. Saccomanno’s use of deadly force was justified for the purpose of self-protection and the protection of others. At the time deadly force was used, Azamar had shot Whitehead in the parking lot. Troopers believed there was an additional victim inside Harmony at Kent and that an 8-year-old was in a nearby white SUV. Negotiations and demands to Azamar to put down his weapon were refused. A review of the relevant evidence, including dispatch records, surveillance video, and body worn camera footage, confirms the timeline of events. Sgt. Wilson’s and Cpl. Saccomanno’s determinations that deadly force was necessary under the circumstances in which they found themselves were reasonable.

Finally, 29 *Del. C.* § 2553(a)(3)(b) requires as a matter of law that if DCRPT issues a public report on the use of force, the report must include the race of the law enforcement officer who used force, the race of the individual on whom force was used, and whether race was a relevant or motivating factor. Sgt. Wilson’s race is white, Cpl. Saccomanno’s race is white, and Azamar’s race is white. Race was not found to be a relevant or motivating factor in this case.

Upon careful consideration of the available evidence, Sgt. Wilson and Cpl. Saccomanno reasonably believed that the use of deadly force against Azamar was immediately necessary for the protection of themselves and others. As a result, the Department of Justice concludes the use of deadly force in this case does not constitute a criminal offense under the laws of the State of Delaware.

¹⁰ 11 *Del. C.* § 471(e)(2).

¹¹ 11 *Del. C.* § 470(a).