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JOSEPH R. BIDEN, III
ATTORNEY GENERAL

October 8, 2008

Colonel Thomas F. MacLeish
Delaware State Police
P. O. Box 430
Dover, DE 19903

RE: Use of Deadly Force – Lt. Rodney Layfield

Dear Colonel MacLeish:

The Department of Justice has completed its investigation and review of the use of deadly force by Lt. Layfield on June 7, 2008. As a result, Lt. Layfield's 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. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Mullaney, Sr.", written over a printed name and title.

Timothy Mullaney, Sr.
Deputy Attorney General

TM/mam

REPORT OF THE DELAWARE DEPARTMENT OF JUSTICE
DELAWARE STATE POLICE SHOOTING

JUNE 7, 2008

By: Timothy Mullaney, Sr.
Deputy Attorney General

Date: August 5, 2008

SCOPE OF THE INVESTIGATION

This is the final report of the Delaware Department of Justice on the use of deadly force against Richard Redmond by Lt. Rodney Layfield of the Delaware State Police on June 07, 2008. Special Investigator Robert Carmine 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 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 Delaware State Police Department or whether, with the benefit of hindsight, the officer could have proceeded differently. This is a matter of a separate internal investigation being undertaken by the Delaware State 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 Richard Redmond. 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

Richard Redmond, a former California Highway Patrol Officer was living in Sara Glen Acres near Milford Delaware, with his wife. Mr. Redmond was apparently suffering from a terminal illness. He was being visited by the local Delaware Hospice. On June 6, 2008, after having a confrontation with two of his neighbors, one of which he threatened to shoot, Richard Redmond parked his jeep in the yard in front of the steps leading up to the front porch of his residence. Later he was observed placing propane or oxygen tanks at the front and back steps of his residence.

On June 6, 2008 at approximately 10:00 pm Sussex Communications received a telephone call from a neighbor who advised that his neighbor, Richard Redmond, was armed with a handgun and had threatened to shoot another neighbor. The caller advised that Redmond was a former California Highway Patrol officer and had a terminal illness. The other neighbor also called and filed a complaint of terroristic threatening against Richard Redmond. Redmond had earlier pulled up to this neighbor's driveway on two occasions just minutes apart and threatened to shoot him and his dog. They along with other neighbors contacted were aware of Redmond's previous employment and that he was suffering from a terminal illness.

City of Milford and Delaware State Police units were dispatched, arrived and set up a perimeter. They then contacted Redmond by telephone but he refused to come out of his house or to let the police in. Police on the perimeter could see Redmond moving about his home and placing propane tanks near the front and back doors. He turned out the lights and opened the windows. He was seen by one Milford officer loading a rifle and walking around inside the house with it.

During one of the conversations with the police, he informed them that he was retired from CHP and had three weeks to live. The DSP sort team and negotiating team were activated and responded to the scene. They parked their armored "Bearcat" vehicle on the roadway in front of 30 Jon Quil. Negotiators tried to get Redmond to come out of his house and surrender. On several occasions, he would exit the front door onto the porch, taunt the police and go back inside the residence.

During the negotiations police made efforts to contact Redmond's hospice nurse. She was able to confirm that Redmond was a hospice patient and that he was formerly with CHP. She updated them on his medical condition and current medications he was taking.

At approximately 2:45 am Redmond appeared in the doorway naked except for his white socks. Redmond was heard telling his wife, "I could light them up right here", meaning he could shoot the police. Redmond was verbally taunting the officers.

The standoff continued until approximately 3:10 AM, on June 7, 2008, when Redmond agreed to come out and a team of troopers from the Bearcat, including Sgt Davis, approached the front of the house. Davis was armed with non-lethal beanbag loads and when near the front of the house went around Redmond's jeep and approached from the side. Both Mr. and Mrs. Redmond were on the porch, with Mr. Redmond near the open door. His weapons were inside the doorway. A SORT team member told Redmond to place his hands on the railing of the porch but he did not comply. Redmond, alerted to Sgt. Davis's approach, turned and started to go inside the door and Davis fired two non lethal bean bag rounds at him, one of which struck him in the leg but did not knock him down. According to witnesses the troopers began to retreat but Sgt. Davis, who was off to the one side had no cover and ran for the Bearcat. Redmond then began firing his rifle at the officers and according to witnesses appeared to single out Sgt. Davis, firing at him as he ran for cover. Witnesses could see the

muzzle flash of his rifle coming from inside his house. One of his rounds penetrated the occupied residence across the street passing through the exterior wall, two interior walls and hitting canned goods in the pantry and was found on the kitchen floor.

Davis got into the Bearcat at which time Redmond directed his rifle fire at the vehicle. Twenty-two actual defects or bullet strikes were found on the front end and windshield of the vehicle.

Lt Rodney Layfield, a SORT team sniper, had taken up a position approximately 80 yards diagonally across the street in a neighbor's yard where he had a clear view of the front door and porch. Layfield related that he could hear Redmond's rounds striking and heard one go over his head. He was in fear for Sgt. Davis's life in that the windshield of the vehicle may fail after repeated hits and the incoming rounds would then reach the compartment where he was taking cover. He also felt that the situation needed to be made safe for the other officers or civilians in the area who could be struck and that the use of deadly force at this point in time was the only option. Lt. Layfield requested that the Bearcat front lights be tuned back on (they had been turned off during the earlier negotiations) as the lights in the house were off but the front porch lights were on, preventing the officers from seeing exactly where the shots were being fired from.

As Redmond appeared in the doorway of his house, after having repeatedly fired at the Bearcat and the officers, Lt. Layfield fired one round from his sniper rifle striking Redmond in the head causing his death.

It appeared that Redmond had loaded numerous magazines for his .223 "Bushmaster" rifle. In addition, police recovered nine other loaded firearms from various locations in the house along with numerous opened boxes of ammunition. Ballistics tests confirmed that the .223 rifle was the weapon used by Redmond.

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, Lt. Layfield's use of deadly force was justified in this case.

With respect to Lt. Layfield, Section 465 of Title 11 of the Delaware Code generally defines the legal use of force for the protection of other persons. It provides in part, that the use of force upon another person is justifiable in order to protect a third person when: 1) the individual using the force would have been justified in using such force to protect himself against injury which he believes is being threatened to the person he seeks to protect and, 2) under the circumstance as the individual using the force believes them to be the person who the individual seeks to protect would have been justified in using such protective force; and, 3) the person using the force believes

that intervention is necessary for the protection of the other person. Additionally, the use of deadly force is justifiable if the individual using such force believes that it is necessary to protect a third person or persons from the threat of death or serious physical injury. Therefore, under Delaware Law, it is Lt. Layfield's subjective state of mind which is of critical importance in determining whether his use of deadly force was justifiable in this case. The specific factual issue is whether Lt. Layfield actually believed at the time that he intentionally fired his weapon that such action was necessary to protect Sgt. Davis in particular and the other perimeter officers from death or serious physical injury provided Lt. Layfield 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.

At the time Lt. Layfield fired his weapon, Richard Redmond had been repeatedly firing a semi-automatic rifle at the police vehicle in which Sgt. Davis had taken refuge. One round passed over the head of Lt. Layfield and another went through a neighboring, occupied residence. Lt. Layfield believed that the use of deadly force was immediately necessary to prevent serious injury or death to those described above. The investigation of the facts and circumstances fully support the reasonableness of that belief and that it was not formed recklessly or negligently. As a result, Lt. Layfield's use of deadly force was justified and is not subject to criminal prosecution under Delaware law.