

JOSEPH R. BIDEN, III
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
NEW CASTLE COUNTY
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CRIMINAL DIVISION (302) 577-3500
FAX (302) 577-2496
CIVIL DIVISION (302) 577-8400
FAX (302) 577-6630
TTY (302) 577-5783

August 5, 2010

Chief Michael Szczerba
Wilmington Police Department
McLaughlin Public Safety Building
300 North Walnut Street
Wilmington, DE 19801

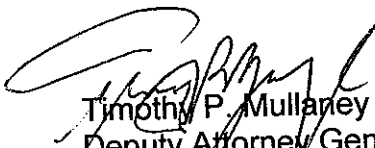
RE: AG Case # 17-10-01-0056, Police Use of Deadly Force Investigation
Officers Steven Barnes, Joseph Dellose, Steven Cancila, Curtis Pierce,
and Norman Vanaman
Date of Incident – January 31, 2010

Dear Chief Szczerba,

Attached to this letter is a revised report concerning the use of deadly force by Officers Barnes, Dellose, Cancila, Pierce and Vanaman on January 31, 2010. There were several minor changes to the report, which did not have an effect on the overall conclusion that the officers' use of deadly force was deemed justifiable and was not subject to criminal prosecution under Delaware law.

Thank you and your command for your cooperation and assistance in this matter. A copy of my revised report is attached. Please contact me if you have any concerns or questions.

Sincerely,


Timothy P. Mullane Sr.
Deputy Attorney General

Enclosure

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

SUBJECT: Darryl Antonio White

OFFICERS: Barnes, Pierce, Vanaman, Dellose and Cancila

January 31, 2010

By: Timothy P. Mullaney Sr. 
Deputy Attorney General

Date: August 5, 2010

Scope of the Investigation

This is the final report of the Delaware Department of Justice on the investigation of Officers Steven Barnes, Curtis Pierce, Norman Vanaman, Joseph Dellose and Steven Cancila of the Wilmington Police use of deadly force against Darryl Antonio White. Special Investigator Thomas Penozza, Director of the Special Investigations Unit, conducted the investigation. Deputy Attorney General Timothy P. Mullaney Sr. supervised the investigation and review of the use of force for the Department of Justice. Statements were taken from both police officers and civilian witnesses who were at the scene. Investigators examined the actual crime scene and also reviewed evidence, reports written by officers who responded to the scene, and witness interviews.

Purpose of the Department of Justice Report

The Department of Justice's investigation of law enforcement officer shootings serves a specific but limited purpose. The Department determines whether a law enforcement 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 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 the departmental policies or procedures concerning the use of force set by the Wilmington Police Department (WPD) or whether, with the benefit of hindsight, the officers could have proceeded differently. This is a matter of a separate internal investigation to be undertaken by the Wilmington Police Department. The sole purpose of the Department of Justice's investigation of this shooting is to determine whether the officers committed a crime when they used deadly force against Mr. White. One of the issues that must be considered in any intentional shooting is whether the use of deadly force by a law enforcement officer was justified under all of the circumstances.

The Facts

On January 31, 2010 at 0254 hours the Wilmington Police Dispatch Center dispatched officers to the 100 Block of Stroud Street for a report of a vehicle that struck a house and was trying to flee the scene. The vehicle was described as a white 4x4. The temperature was approximately 15 degrees and there was snow and ice on the ground making it difficult to drive. At 0256 hours Officers Steven Barnes and Curtis Pierce, who were riding together, arrived at the intersection of Stroud and Anchorage Streets. They observed a white 4x4 stuck between a pole and a dump truck at the northeast corner of the intersection. The vehicle was being operated by a NM subject, who was later identified as Darryl Antonio White. White's vehicle was rocking back and

forth trying to maneuver the vehicle between the pole and the dump truck. The vehicle appeared to be having a problem getting traction due to the weather conditions.

As Officers Barnes and Pierce approached White's vehicle, Officer Steven Cancila arrived on the scene and parked in the intersection facing towards White's vehicle. Officers Barnes and Pierce advised White to stop and get out of the vehicle numerous times to no avail. At this time White's vehicle got traction and shot forward hitting Cancila's vehicle head on. White backed up and hit the pole again. As this was occurring Officer John Santiago and Officer Norman Vanaman, who were riding together, arrived on the scene and pulled up next to Cancila's vehicle. Officer Cancila attempted to move his vehicle but White drove forward again striking Officer Santiago's vehicle then hitting Officer Cancila's vehicle. During the above described events, Officer Pierce tried several times to break the driver's side window on White's vehicle with no success. Officer Santiago struck the passenger side front window of White's vehicle and was able to break it with his baton. However, Officer Santiago was unable to gain entry into the vehicle due to the erratic driving of White.

Pierce and Barnes, who were on foot, went to the southeast corner of the intersection to avoid being struck by White's vehicle. White's vehicle then went in a circle and appeared that he was trying to hit the officers with his vehicle. Cancila thought that White's vehicle was going to hit Pierce and Vanaman so he fired three rounds at White. Pierce fired two or three rounds at White and Barnes fired two or three rounds at White. Vanaman thought that White was driving to run him down, as well as officer Pierce, so he fired multiple rounds at White. White then headed west on Stroud striking two parked vehicles on the north side of Stroud. Officer Joseph Dellose arrived at the scene after being advised by Dispatch that shots had been fired. Officer Dellose parked away from the intersection and proceeded on foot to the intersection.

Officers Barnes, Pierce, Vanaman, and Dellose had retreated to the sidewalk on the southwest corner of the intersection (Stroud and Anchorage Streets) behind a parked vehicle. White drove across Stroud Street striking a parked vehicle on the south side of the street and onto the sidewalk. White drove his vehicle on the sidewalk directly towards the four officers at approximately 25 MPH. All four officers fired multiple rounds at White and ran to avoid being hit by White's vehicle. White's vehicle narrowly missed Officer Pierce and then struck Officer Dellose and continued on striking another parked vehicle. White's vehicle then went through the intersection of Stroud and Anchorage Streets and struck two additional parked vehicles on Anchorage Street before coming to a stop in front of a Wilmington police car. At this time Officers Barnes and Vanaman approached White's vehicle from opposite sides and fired their tasers at White. White was then removed from the vehicle and first aid was administered.

Officer Barnes, Dellose, Pierce, Vanaman and Cancila fired a total of forty three (43) rounds at White. Officer Santiago did not discharge his firearm in the incident. During the entire incident all the officers, who all were in uniform, were yelling repeatedly at White to "Stop and get out of the vehicle". This was verified by testimony of civilian witnesses (four) at the scene. White was struck six (6) times, three (3) in the

upper left thigh, one (1) in the left shoulder, one (1) in the right bicep and one (1) to the right arm. White was transported to Christiana Hospital where he was treated for his wounds and released on February 4, 2010.

Conclusion:

After a thorough investigation and review of all statements and reports, it is the conclusion of the Department of Justice that, as a matter of Delaware Law, Wilmington Police Officers Steven Barnes, Curtis Pierce, Norman Vanaman, Joseph Dellose and Steven Cancila's use of deadly force was not a criminal act because the use of such force was justified. 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 under § 464 of this title in using such 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 Officers Barnes, Pierce, Vanaman, Dellose and Cancila's subjective state of mind which is of critical importance in determining whether their use of force was justifiable. The specific factual issue is whether Officers Barnes, Pierce, Vanaman, Dellose, and Cancila actually believed at the time that they intentionally fired their weapons that such action was necessary to protect themselves or others from death or serious physical injury, so long as these officers were 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 Officers Barnes, Pierce, Vanaman, Dellose and Cancila fired their weapons, Mr. White, who had ignored numerous commands to stop and exit his vehicle, continued to drive his vehicle in a reckless and deliberate manner into police and civilian vehicles and directly at the officers. The officers believed they were in immediate danger and that the use of deadly force was immediately necessary to prevent serious injury or death to each of them. 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, Officers Barnes, Pierce, Vanaman, Dellose and Cancila's use of deadly force was justified and is not subject to criminal prosecution under Delaware Law.