

# Delaware Criminal Justice Council

## 11 Del. C. §9210 Authorized Disclosures

### Agency Information

Law Enforcement Agency: Delaware State Police

Date of Incident: August 31, 2023

### Incident Details

Law Enforcement Officer has discharged a firearm at a person. ☒ Yes | ☐ No

Law Enforcement Officer's use of force that results in serious physical injury. ☒ Yes | ☐ No

An investigation that results in a sustained finding that a Law Enforcement Officer engaged in a sexual assault or sexual harassment. For purposes of this paragraph, "sexual assault" means the commission or attempted initiation of a sexual act by means of force, threat, coercion, extortion, or offer or implication of leniency or official favor, under the color of authority. Propositioning sex or commission of a sexual act while an officer is on duty is deemed a "sexual assault." ☐ Yes | ☒ No

An investigation that results in a sustained finding that a Law Enforcement Officer engaged in dishonest conduct. This includes, but is not limited to sustained findings of perjury, false statements, filing false reports, witness tampering, and destruction, falsification, or concealment of evidence. ☐ Yes | ☒ No

A sustained finding of domestic violence by a Law Enforcement Officer. ☐ Yes | ☒ No

### Detailed Narrative

Please include a detailed narrative of the incident. A "detailed narrative" means a complete description of the facts, steps taken to further an investigation, evidence collected, conclusions reached, the names of officers involved for whom misconduct was substantiated, any discipline assigned in connection with the event, and the employment status of disciplined officers. 11 Del. C. § 9200(b)(1).

The detailed narrative may not reveal the name or any personal identifying information of a victim or witness. In a domestic violence case where revealing the name of the officer would also allow identification of the victim, the officer's name may be redacted.

The Criminal Justice Council shall post the narratives they receive under this paragraph on their website within 30 calendar days of receipt.

I. Complete Description of the Facts:

Around 7:00 AM on August 31, 2023, the Delaware State Police ("DSP") Special Operations Unit continued an investigation to locate a fugitive named Tremaine D. Jackson ("Jackson"). Jackson was wanted on twenty-one (21) active arrest warrants (primarily for repeated retail thefts/shopliftings) from various police agencies in Delaware, four (4) violations of probation pending in the Delaware Superior Court, and two (2) active out-of-state warrants. DSP Troopers were familiar with Jackson, and his extensive fugitive status and criminal history. Additionally, they were aware that Jackson had recently led police on two separate car chases, both occurring in August of 2023. During the first pursuit, Jackson collided with a Trooper's vehicle, a civilian's vehicle, and managed to escape. The second vehicle pursuit occurred when Jackson was able to successfully flee from Troopers after committing a retail theft.

On the date in question, the Delaware State Police's Electronic Surveillance Unit was able to determine Jackson's whereabouts. He was in New Castle County at 2225 Hessler Blvd, the location of a Lowe's Home Improvement retail store. Responding plain-clothed Troopers were able to locate Jackson inside of the Lowes. Given his history of fleeing, these Troopers requested additional support to apprehend Jackson. Shortly thereafter, Troopers assigned to DSP's Special Operations Response Team ("SORT") and the Drug Unit arrived at the location.

Troopers established a controlled perimeter around the store, with police vehicles positioned in the front and back of Lowes. Troopers inside the establishment were following Jackson and were able to relay his actions to other Troopers over the radio. After filling a shopping cart full of items, Jackson ultimately exited the rear of the business without paying for the merchandise. This information was relayed over the radio to Troopers positioned outside the store. SORT members (Troopers Joshua Cary, Mitchell Moyer, and Michael Efelis) were in an undercover pickup truck positioned in the rear of the business when they heard that Jackson was exiting the store from the rear. They observed Jackson exit through the lumber yard storage area in the back of Lowes pushing a shopping cart full of merchandise. As Troopers approached Jackson in the undercover pickup truck, he pushed the shopping cart full of stolen items in front of their truck and ran toward his vehicle, which was parked along a guardrail on the back access road to the business.

Trooper Cary ("Cary") exited the pickup truck from the front passenger side. Almost immediately upon giving chase, Cary tore his quadricep and went to the ground. Trooper Moyer ("Moyer") exited from the back seat and began chasing Jackson. However, Jackson ran to his vehicle and got into the driver's seat. Moyer caught up to Jackson and attempted to pull him out of the vehicle. Jackson was holding onto the steering wheel, preventing Moyer from pulling him out of his car. Jackson was able to start his car. Trooper Efelis ("Efelis"), who was driving the Troopers' undercover pickup truck, pulled the truck in front of Jackson's vehicle to prevent it from fleeing the scene. This tactic is commonly referred to as a "pinch" maneuver which requires officers to position their vehicle in such a way that it blocks the path of the suspect's vehicle, preventing it from fleeing the scene. Efelis positioned the pickup truck in front of Jackson's vehicle, "pinching" it in between the Troopers' truck and the guardrail, almost entirely blocking any path of escape.

Efelis opened the driver-side door of the truck, further blocking the path of Jackson's vehicle. At the same time, Efelis exited the driver's seat of the pickup truck. Jackson, still behind the wheel, continued to accelerate forward, forcing Efelis to jump onto the hood of Jackson's car to avoid being struck. With the engine revving, Jackson's vehicle pushed against the Trooper's pickup truck, lunging it forward, crushing the metal of both cars, with Efelis now on Jackson's hood. This did not stop Jackson from continuing to accelerate, trying to force his vehicle free. Efelis did not have his handgun drawn when he initially got onto the hood of Jackson's vehicle. Jackson continued to accelerate, and the vehicle continued to lunge forward, causing Efelis to slide down the hood of the car. Efelis was able to regain his footing and at that moment drew his weapon. Efelis continued to give multiple commands, telling Jackson to stop revving the engine. Each time that Jackson revved the engine, his vehicle would lunge forward, continuing to crush both cars. Efelis shouted additional commands for Jackson to stop and get out of the car. Moyer was still on the driver's side of Jackson's vehicle attempting to pull him out of the car through the driver's side window.

Another group of SORT members was in a truck positioned in the front parking lot of the Lowes. This included Trooper Dan Eby ("Eby"), Trooper Thomas Macauley ("Macauley"), and Lieutenant Matt Fuski ("Fuski"). When these Troopers heard that Jackson exited from the rear of the building, they immediately made their way to that area. Fuski was driving the truck, with Macauley and Eby in the passenger seats.

As they approached the rear of the building, Macauley noticed Cary, a SORT colleague, lying on the ground. Macauley knew that Cary was in a truck with Efelis and Moyer. At this point, Macauley suspected that Cary had been struck by Jackson's fleeing vehicle and was concerned about the safety and wellbeing of his other colleagues. Fuski kept driving down the back access road of the Lowes where the other Troopers were located. Macauley immediately saw Moyer, hanging out of the driver's side of Jackson's vehicle. When the other Troopers arrived, Jackson was still in the driver's seat of his vehicle trying to accelerate through its "pinched" position. Macauley saw that the truck, driven by Efelis, was wedged in front of Jackson's vehicle. Macauley then saw Efelis get out of his pickup truck and onto the hood of Jackson's vehicle. Macauley and Eby both exited their vehicle and ran toward Jackson's vehicle.

Macauley positioned himself on the hood of Jackson's vehicle next to Efelis. Both were repeatedly shouting commands to stop resisting arrest. Efelis yelled at Jackson to "give up," "stop gassing it," or he would "have to shoot." When Jackson did not respond to their commands and continued to accelerate, Efelis fired one round at Jackson. Efelis would explain that he believed that Moyer, Macauley, and himself were in danger of being seriously injured if Jackson continued to accelerate, which is why he shot. After a brief pause, both Efelis and Macauley believed Jackson was about to surrender, but instead, Jackson accelerated again. Macauley felt that Moyer, Efelis, and himself were in danger of being seriously hurt if Jackson continued to accelerate. At that moment Macauley fired one round at Jackson. When Macauley fired, he and Efelis were still on the hood of Jackson's car, and Moyer was actively trying to remove Jackson from the vehicle. Macauley and Efelis both discharged their firearms once, and both hit Jackson in the chest. Almost immediately after Macauley fired, other Troopers arrived on scene. They were able to help Moyer remove Jackson from his vehicle and began treating Jackson for his injuries. A SORT medic was on scene and began to treat Jackson's injuries. Although Jackson was still alive and responsive when he left the scene via ambulance, he ultimately succumbed to his injuries at a nearby hospital. A subsequent autopsy found that Jackson suffered two gunshot wounds to the chest, which were determined to be his cause of death.

## II. Investigatory Steps:

The investigation in this case was conducted by the Delaware State Police Homicide Unit and an independent investigation was conducted by the Delaware Department of Justice Division of Civil Rights and Public Trust.

## III. Evidence Collected:

The evidence collected was the body worn camera footage, in-car camera footage, camera footage from civilians, crime report, ballistic evidence, and involved officer interviews.

## IV. Conclusions Reached:

Upon careful consideration of the available evidence, the Troopers Efelis and Macauley reasonably believed that the use of deadly force against Jackson was immediately necessary for protecting another police officer and themselves. As a result, the Department of Justice concluded the use of deadly force in this case does not constitute a criminal offense under the laws of the State of Delaware.

V. The names of officers involved for whom misconduct was substantiated:

N/A

VI. Any Discipline Assigned in Connection with the Incident:

N/A

VII. The Employment Status of Disciplined Officers:

N/A