

Delaware Criminal Justice Council

11 Del. C. §9210 Authorized Disclosures

Agency Information

Law Enforcement Agency: Delaware State Police

Date of Incident: May 31, 2024

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 9:19pm on May 31, 2024, a minor witness called 9-1-1 to report a suicidal man with a gun near 2917 Ferris Road in Wilmington, Delaware. Cpl. David Franck, who was on duty, was dispatched to the area. The following information was provided by the 9-1-1 caller and subsequently relayed to Franck over his police radio. The man with the gun was described as a white male, possibly in his thirties, dressed in shorts sitting on a curb. At the time the man identified himself as "Billy." The dispatcher conveyed that "Billy" was threatening to shoot himself. The 9-1-1 caller indicated that he had taken a gun away from "Billy" but believed he had another gun. "Billy" indicated that he was going to shoot the police when they arrived. "Billy" could be heard in the background of the 9-1-1 call saying he was "ready to go out" and repeatedly saying that he was going to commit "suicide by cop." Before Franck arrived on scene the dispatcher noted that the suspect, "Billy," had a second firearm. It was later determined that "Billy" was Jonathon Kreiser.

Franck, dressed in full uniform and operating an unmarked Dodge Durango patrol vehicle, was the first police officer to arrive. Kreiser was seated on the curb with his left side exposed to Franck. There were also two minors present, standing near Kreiser. Franck activated the emergency lights on his patrol vehicle and gave Kreiser numerous commands to show him his right hand, which Kreiser refused. Franck asked for Kreiser's name, and Kreiser identified himself as "Billy." Kreiser threatened to shoot Franck with a second gun, which Kreiser said was in his right pocket, if Franck did not shoot him first. Kreiser then pivoted and pointed his right hand, still in his pocket, which he purported to be a gun, at Franck. Franck ordered Kreiser to take his hand out of his pocket. Kreiser then stood up and walked a short distance. He picked up a handgun and magazine from the sidewalk.

As Kreiser picked up the gun from the sidewalk, one of the minors called out that Kreiser was loading the gun. Franck gave Kreiser numerous commands to stop what he was doing, which Kreiser disregarded. Franck can be heard on his body worn camera pleading with Kreiser to stop what he is doing. Kreiser loaded the magazine into the handgun and raised it up towards Franck. Franck then fired seven shots at Kreiser until Kreiser dropped to the ground. The handgun that Kreiser had pointed at Franck was recovered from the sidewalk at the scene. Kreiser received emergency medical aid and was transported to Christiana Hospital. Kreiser survived the shooting and was treated for gunshot wounds to his stomach and right leg.

Earlier that day, Kreiser's brother had reported Kreiser missing to the Smyrna Police Department and expressed concern that Kreiser may be suicidal, noting that Kreiser texted a photo of himself holding a firearm to his forehead. The Smyrna Police Department Issued a DIAC (Delaware Information and Analysis Center) "Gold Alert" and a missing person alert for Kreiser. In the alert, Kreiser is listed as a potentially suicidal subject who stole a firearm from his brother's house. The alert advised that attempts to locate Kreiser had been unsuccessful and there was concern for his safety and well-being. Franck did not know at the time of the shooting that the man who identified himself as "Billy" was Kreiser.

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, camera footage from civilians, crime report, ballistic evidence, witness interviews, and involved officer interview.

IV. Conclusions Reached:

Upon careful consideration of the available evidence, Franck reasonably believed that the use of deadly force against Kreiser was immediately necessary for self-defense. 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