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DEA Agent Cleared in Shot-In-The-Back Case

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I. COURT TOSSES COP'S MANSLAUGHTER INDICTMENT AFTER BRIEFING ON FORCE SCIENCE FINDINGS

A DEA special agent and former township SWAT officer who was indicted for first-degree manslaughter after killing a suspect who was fighting to grab the officer's gun has been vindicated by a federal appeals court, thanks in part to studies by the Force Science Research Center.

A grand jury in Brooklyn (NY) indicted the agent, Jude Tanella, in circumstances that DEA administrator Karen Tandy says "could happen to any police officer or federal agent attempting to make an arrest."

Tanella, a SWAT officer for the Township of Old Bridge (NJ) P.D. before joining the feds, was part of an anti-drug team that boxed in the car of a suspected coke dealer during a daylight arrest attempt at a busy intersection in New York City. The suspect rammed his way free and swerved wildly onto pedestrian walkways in flight through the congested neighborhood before finally crashing his vehicle between a telephone pole and a fire hydrant. He then took off on foot, holding tight to a plastic bag filled with 3 kilos of cocaine.

With service weapon drawn, Tanella pursued, continually shouting “Police!” and ordering the suspect to stop. After about 400 feet the suspect tripped trying to dodge between 2 parked cars, and fell to the street. Gun still in hand, Tanella swooped in to collar him.

The suspect, “who was significantly taller and heavier than Tanella, violently resisted,” Tandy says. “After punching Tanella numerous times, [he] shoved the agent and knocked him off balance, onto his hands and knees. At that point, Tanella saw [the suspect] reach for Tanella’s gun. Fearing for his life, Tanella fired one shot, striking [the suspect] in the lower right side of his back.” The drug dealer was DOA at the hospital less than 30 minutes later.

No one in the crowd that formed to watch all this had been willing to call for help on Tanella’s behalf, but several were quite willing to volunteer accounts that Tandy characterizes as “clearly inaccurate or intentionally false.” One key witness, for example, testified before a special grand jury that the suspect was already handcuffed when Tanella shot him, an accusation that the DA’s office later conceded was a lie. “It is unknown whether that error was ever brought to the grand jury’s attention,” Tandy observes dryly.

In any case, Tanella’s insistence that he believed he was in imminent lethal danger and shot only in self defense was brushed aside and he was charged criminally. The DA’s office argued that the placement of Tanella’s round in the side of the suspect’s back suggested that the suspect was attempting to flee when shot, making the deliberate use of deadly force illegal.

Tanella’s attorneys succeeded in removing the case to federal court. The federal district judge accepted Tanella’s version of events and dismissed the charge against him as unwarranted. The DA’s office, however, doggedly appealed the decision.

During the appeal, an amicus curiae [friend of the court] brief was prepared for the justices by the law enforcement-related legal and educational organization Americans for Effective Law Enforcement and the International Assn. of Chiefs of Police. This brief prominently presented the results of landmark studies by Dr. William Lewinski, executive director of the Force Science Research Center [FSRC] at Minnesota State University-Mankato, which have scientifically addressed the physical dynamics of suspects shot in the back.

As Force Science News readers are aware, Lewinski has documented that suspects who are presenting a frontal threat can easily end up shot in the back because they can turn away in the split second between the time an officer makes the irrevocable decision to shoot and the time his round(s) actually impact.

As Lewinski was quoted in the brief, “[T]he time it takes for an officer to process visual stimuli and then to react to a person’s threat is a longer period than the suspect’s turning actions.”

After reviewing the brief, the U.S. Court of Appeals for the 2nd circuit last summer unanimously affirmed the district court's dismissal of the manslaughter charge against Agent Tanella. Rejecting the DA's position that Tanella acted wantonly and with criminal intent, the court ruled that under "tense and perilous circumstances," the agent "honestly believed his life to be in danger and...his belief was objectively reasonable."

After a 2-year struggle, Tandy declares, Agent Tanella's nightmare proved ultimately to be a "story of injustice defeated."

Administrator Tandy has a more extensive account of this case in the October issue of The Police Chief, the IACP magazine. To see the article online, click here: http://www.policechiefmagazine.com/magazine/index.cfm?fuseaction=display&issue_id=102004&category_ID=10

A full report of Lewinski's findings regarding suspects shot in the back can be found at <http://www.ultimateperformancetraining.com/articles/shotinback.pdf>

The Tanella case is cited as: New York v. Tanella, 374 F.3d 141 (2nd Cir. June 30, 2004.)

II. FORCE SCIENCE RESEARCH CENTER EXPANDING INTO NEW HEADQUARTERS

The Force Science Research Center has announced that it will be moving to an enhanced headquarters location on the Minnesota State University, Mankato campus in January, 2005. The new facility, which has been custom designed to meet both the development and research needs of the Center, will cater to the high definition projection capabilities of the new IES simulator scheduled for delivery just prior to the move while providing additional space for on-site motion studies using live participants. Additionally, the new headquarters, which was funded in part by the University, offers a specially built computer workshop which will allow the Center to design highly customized computer hardware and software to support its research efforts. Private meeting rooms and expanded staff areas will also be included.

"International demand for study results from the Force Science Research Center is at an all-time high and we expect the need for this type of information to continue compounding," says FSRC Executive Director Dr. Bill Lewinski. "With that comes the need for additional space to support our increasingly elaborate and intense research projects. Our new headquarters location provides us with the kind of facilities we need to stay on the cutting edge of research and to provide the kind of crucial information that keeps officers and the community safe."

FSRC co-founders Dr. Bill Lewinski and Dr. Bill Hudson as well as the members of the Center's National Advisory Board may still be reached by e-mail at

updates@forcescience.org or by phone at (507) 389-2832. U.S. Mail will continue to be delivered to the new FSRC Headquarters through the main address listed at www.forcescience.org.

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Written by Force Science Institute
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