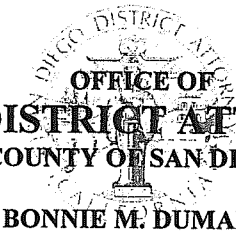
JESUS RODRIGUEZ
ASSISTANT DISTRICT ATTORNEY



OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

BONNIE M. DUMANIS
DISTRICT ATTORNEY

San Diego
330 West Broadway
San Diego, CA 92101
(619) 531-4040

http://www.sandiegoda.com

December 3, 2009

Chief William Lansdowne
San Diego Police Department
1401 Broadway
San Diego, CA 92101

Re: Fatal shooting of Mr. Gregory Michael Beaudet on August 27, 2009 by San Diego Police Officer Jared Ross Wilson; SDPD Case No. 09-044849; DA Special Operations Case No. 09-167PS; Deputy District Attorney Assigned: Damon Mosler

Dear Chief Lansdowne:

We've reviewed the reports and other materials compiled by your department's Homicide Division concerning the fatal shooting of Mr. Gregory Beaudet by Officer Jared Wilson on August 27, 2009. A District Attorney Investigator responded to the scene and was briefed by your investigators. This case was presented to the DA's Office for review on November 19, 2009.

Persons Involved
Mr. Gregory Beaudet was 22 years-old, homeless and was armed with an eight-inch knife with a four-inch double edged blade.

Officer Jared Wilson was in full uniform and assigned to bicycle patrol duties in Central Division. He was armed with a Heckler & Kock .45 caliber semi-automatic pistol.

Background
Shortly before midnight on Thursday, August 27, 2009, Mr. Beaudet along with two other men entered the Ralphs Grocery Store at 101 G Street in San Diego. The first man stole a bottle of liquor, ran from the store and eluded capture. Security guards and store employees chased after the thief, but they couldn't catch him because their path was blocked by Mr. Kidis, an accomplice, who stood in the guards' way and tripped one guard. The guards detained Mr. Kidis who fought with them and who then called out to a third man, Mr. Beaudet, for help.
Mr. Beaudet ran up to where the guards were struggling with Mr. Kidis and attacked them, kicking one guard off of Mr. Kidis. Two fights then broke out involving the Ralphs security guards and employees who were trying to detain and arrest both Mr. Kidis and Mr. Beaudet. While the guards struggled with both men one guard made a 911 call to the police.

Shooting
Responding from a block away to the 911 call placed that night were uniformed San Diego Police Officers Jared Wilson and Kyle Williams. Both officers were on bike patrol and arrived within seconds of the 911 call. They immediately intervened trying to break up both fights. When the officers, the security guards and the Ralphs employees saw that Mr. Beaudet had armed himself with a knife and was trying to stab them, Officer Wilson drew his handgun and ordered Mr. Beaudet to drop the knife. When Mr. Beaudet refused, Officer Wilson fired twice. Mr. Beaudet was hit by both shots, but then ran from the scene mortally wounded collapsing and dying about half a block away.

Investigation
The crime scene was secured and a scene investigation was conducted. The investigation revealed that Officer Wilson fired his weapon twice. Two expended .45 caliber shell casings were recovered at the scene. The expended shell casings were located in areas consistent with Officer Wilson's stated firing position. The weapon Mr. Beaudet was armed with, an eight-inch knife with a four-inch double edged blade was recovered at the scene.

Witness Statements
A security guard for Ralphs saw Mr. Beaudet, Mr. Kidis and a third man enter the store. The guard later saw other guards and store employees chasing the third man, who had stolen a bottle of liquor, outside. The guard went outside and saw Mr. Beaudet attacking the guards who had detained Mr. Kidis. The guard said Mr. Beaudet wasn't following the guard's orders and that he and the other guards were finally able to wrestle Mr. Beaudet to the ground. When police arrived, he heard an officer yelling, "***This is the police! Lay still! Let me cuff you!"*** As the guard stood up he saw a knife on the ground and yelled out, ***"He has a knife!"*** The guard saw Mr. Beaudet grab the knife and swing it at them and at one of the police officers. The guard said he smelled a very strong odor of alcohol coming from Mr. Beaudet's person. He also suspected Mr. Beaudet was high on drugs because of the way he did not react after being hit by the officer's baton. The guard saw an officer draw his gun and fire twice at Mr. Beaudet, who ran away and fell to the ground. The guard said, ***"I think he wanted to stab whoever he could. He wasn't worried about who was in front of him... I was pretty scared... I think he*** (the officer) ***was more than justified."***

Another security guard at Ralphs was told one of the three men who had entered the store stole a bottle of liquor. When he and the other guards tried to stop the thief he ran from them and got away because his accomplice, Mr. Kidis, tripped and blocked the guards preventing them from catching the thief. They tried to arrest Mr. Kidis, but he fought with them. The guard said Mr. Beaudet suddenly came to Mr. Kidis' aid, jumping up and kicking and throwing elbows at them. The guard said he and a clerk took Mr. Beaudet to the ground as police bicycle officers arrived. The guard heard an officer yelling at Mr. Beaudet to stop fighting, but Mr. Beaudet wasn't listening to him so the officer hit him three or four times with a baton. The guard said, ***"He got up and he took the knife out... That's when the officer asked him to drop the knife... He did not... the officer shot the suspect once and then a second time and the suspect dropped the knife and ran..."***

A clerk at Ralphs went to help the security guards. The clerk said while they were trying to detain Mr. Kidis, he heard Mr. Kidis yelling to Mr. Beaudet to come and help him. He saw Mr. Beaudet running toward him, jump up and kick him in the leg which broke them up into two groups. The clerk said, ***"It was so fast. We got him down. But he was like more juiced up than we were. He was trying to get away. He was fighting, elbowing, kicking, boxing."*** When he saw uniformed officers on bikes arrive, he thought to himself that they were going to be okay. The clerk heard an officer yelling, ***"Police Department! Stop resisting! Stay down!"*** The clerk reported that, ***"The guy just got up like nothing! Pushed us off him! ... I see the knife... This knife was meant for hurting somebody!... Two sharp edges... I started yelling knife, knife, knife!... He jumped up in the air like some crazy guy... He was swinging it around... The policeman said put it down... I was in fear for my life... I'm glad that somebody was there to take care of the situation... If he*** (the officer) ***was as afraid as I was... Yeah, I'm glad somebody had a gun... I think he saved somebody from getting hurt..."***

A cashier at Ralphs went outside and saw security guards fighting with Mr. Beaudet. When the officers arrived he heard them announcing their presence yelling, ***"Police!"*** He also heard an officer yelling, ***"Put your hands behind your back"*** and then saw the officer strike Mr. Beaudet in the back with his baton. The cashier said, ***"The suspect's still not putting his hands behind his back so the cop begins to hit him a few times, like put your hands behind your back! This is the police! The guy is still not doing anything*** (complying with the officer's commands). ***He's just getting up like it*** (being hit with the baton) ***was nothing... At that moment they noticed a knife... I heard, "He's got a knife."... I saw the knife in his hand... He looked like he was ready to defend himself or attack someone... or just do whatever it takes to get away or get free... At no point did he look like he was gonna give into the cops... The suspect was really like out of control."***

Mr. Kidis told detectives Mr. Beaudet previously said he was, ***"trained to kill"*** when he was in the military. Detectives learned Mr. Beaudet had been previously dishonorably discharged from the United States Navy. Kidis admitted that he, Mr. Beaudet and "Joseph", the man who stole the bottle of liquor, all met up that evening downtown and entered Ralphs together. Kidis admitted that after Joseph stole the liquor bottle from Ralphs that he and Joseph ran from the store. Kidis admitted that while he was being restrained by the guards he called out to Mr. Beaudet for help. Kidis said Mr. Beaudet ran up, jumped and kicked one of the guards off of him. Kidis admitted seeing guards fighting with Mr. Beaudet, the bicycle officers arrive, an officer hitting Mr. Beaudet with a baton and Mr. Beaudet pulling out a knife. Kidis said, ***"When they was hitting him with the baton that's when he pulled the knife out."*** Kidis heard a police officer yelling, ***"Put it down! Put it down,"*** saw Mr. Beaudet start to run, heard two shots fired and what he thought was a knife falling to the ground.

Officer Williams' Statement

Officer Williams said he and Officer Wilson responded to a report of a robbery at Ralphs. When they arrived, Williams saw two separate fights involving Ralphs security guards who were trying to arrest Mr. Kidis and Mr. Beaudet. After Williams handcuffed Mr. Kidis he went to help Officer Wilson who he saw striking Mr. Beaudet with his baton. Williams saw Mr. Beaudet

stand up, push three security guards off of him and then heard Wilson yell out, ***"Knife! Knife! Knife! Drop the knife!"*** Williams said he and Wilson were within two feet of Mr. Beaudet when the shots were fired. Williams said, ***"As he began to stand up I saw the knife in his hand. That's when Officer Wilson... fired his weapon twice... As he pushed up off the ground I remember a slashing motion*** (with the knife) ***from his left to his right... Towards my partner and there was several security guards and Ralphs employees that were right there."***

Officer Wilson's Statement
Officers Wilson supplied a voluntary and recorded statement. Officer Wilson said he responded with Officer Williams to a report of a robbery at Ralphs Grocery Store. When they arrived he saw two groups of people fighting on the corner and suspected it was related to the robbery. Wilson said he and Williams jumped off their bikes, left them in the street and went to break up the fights. Wilson said he went to one fight and his partner to the other.

Officer Wilson saw Ralphs employees on each side of Mr. Beaudet fighting with him trying to hold him on the ground. Wilson saw Mr. Beaudet was struggling with the guards while lying on his stomach with his hands underneath him. Wilson said he ordered Mr. Beaudet to stop fighting, stop resisting and put his hands behind his back. Wilson saw Mr. Beaudet physically force one of the guards off his back and then stand up and assault the guard. Wilson said he expanded his baton and struck Mr. Beaudet several times in the shoulders. Wilson said Mr. Beaudet, ***"didn't react to that at all. Like nothing... Like I hit him with a feather."*** Wilson said he heard yelling, ***"He's got a knife"*** and then saw Mr. Beaudet holding a knife in his hand. Wilson said he and Williams were about three or four feet away when he saw Mr. Beaudet making quick hand movements trying to stab one of the Ralphs employees, himself and Williams.

Officer Wilson said, ***"I was afraid he was going to stab us... I dropped my baton because it didn't work... I pulled my gun."*** Wilson said he yelled, ***"I'm gonna shoot him"*** so as to warn the security guards and Williams he was going to fire. Wilson continued, ***"He never dropped the knife and I shot him once. He didn't drop the knife and he didn't go down... He still had the knife in his hand and I fired another round... After I fired the second round he bolted and ran... It was so fast, I was afraid he was going to stab someone. "***

Autopsy
On August 28, 2009, Dr. Bethann Schaber from the San Diego County Medical Examiner's Office performed an autopsy on Mr. Beaudet. Dr. Schaber determined Mr. Beaudet sustained two gunshot wounds. One gunshot entrance wound with stippling was present on the right side of his torso. A second gunshot entrance wound, without stippling, struck him in the right buttock. Toxicology tests revealed Mr. Beaudet had both cannabinoids and alcohol in his system. His blood alcohol level was measured at **.15%**. Dr. Schaber classified the manner of Mr. Beaudet's death as a homicide.

Legal Analysis

This review was conducted pursuant to the joint protocol between this office and all San Diego law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force. The review does not examine such issues as compliance with the policies and procedures of any law enforcement agency, ways to improve training or tactics, or any issues related to civil liability. Accordingly, such a review should not be interpreted as expressing an opinion on these matters.

Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm and to use reasonable force in making an arrest. California Penal Code section 835a allows an officer to use reasonable force to make an arrest and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because of that person's resistance. Penal Code section 196 declares that homicide is justifiable when committed by public officers when necessarily committed in overcoming actual resistance in the discharge of any legal duty.

In accordance with Penal Code section 196, peace officers may use deadly force in the course of their duties under circumstances not available to members of the general public. We are mindful; however, that certain limits on the use of deadly force apply to peace officers. The U.S. Ninth Circuit Court of Appeals, in the case of *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912, delineated those circumstances under which deadly force may be used:

> "[P]olice may use only such force as is objectively reasonable under the circumstances. An officer's use of deadly force is reasonable only if 'the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.' All determinations of unreasonable force 'must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.'" [Citations omitted.]

Irrespective of any laws applicable to situations where peace officers use deadly force in accomplishing their duties, the law of self defense is available to any person. Homicide is justifiable in accordance with Penal Code 197 when resisting any attempt by a person to commit great bodily injury on or kill any person.

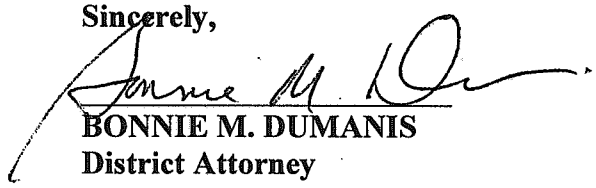
Conclusions

During this incident, uniformed San Diego Police bicycle officers Jared Wilson and Kyle Williams responded to an emergency call of a robbery at the Ralphs Grocery Store in downtown San Diego. When the officers arrived they saw Ralphs security guards and employees fighting with Mr. Kidis and Mr. Beaudet, two of the three men involved in the theft. While trying to break up the two fights, both officers saw that Mr. Beaudet had armed himself with an eight inch double edged knife. When Mr. Beaudet refused Officer Wilson's commands to drop the knife and began slashing at them, the guards and the Ralphs employees with the knife, Officer Wilson fired twice fatally wounding him.

Based on these circumstances, it's readily apparent that Officer Wilson fired at Mr. Beaudet in self-defense, as well as in defense of Officer Williams, the security guards and Ralphs employees. He therefore bears no criminal liability for his actions.

A copy of this letter, along with the materials submitted for our review will be retained in our files.

Sincerely,



BONNIE M. DUMANIS
District Attorney
County of San Diego

BMD:vf
cc: Captain Jim Collins