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May 22, 2009

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

**Re: Fatal shooting of Mr. Willard Anthony Bradley on March 20, 2009 by San Diego Police Officers Arthur Lee Scott and John Michael Thompson; SDPD Case No. 09-015094; DA Special Operations Case No. 09-048PS; 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. Willard Bradley by Officers Scott and Thompson on March 20, 2009. A District Attorney Investigator responded to the scene and was briefed by your investigators. This case was presented to the District Attorney's Office for review on May 6, 2009.

***Persons Involved***
Mr. Bradley was 51 years old and was armed with a knife. Officers Scott and Thompson were in full uniform, assigned to patrol duties, Southeastern Division, and armed with .40 caliber and .9 mm semi-automatic handguns.

***Background***
Mr. Bradley and his wife Gail had been married for four years. On March 6, 2009, Mrs. Bradley obtained a Temporary Restraining, Stay-Away and Move-Out Order against her husband. The Sheriff served Mr. Bradley with the restraining order that same evening. Twelve days later on March 18, 2009, Mrs. Bradley requested the TRO she obtained on March 6, 2009 be, ***"Vacated."***

Mrs. Bradley wrote the court, ***"I have been able to talk to my husband and he has accepted that I will be filing for divorce. He is willing to make alternate living arrangements while we work out the necessary details. He has shown regret for his comments and his actions and is sincere in handling this divorce as civilly as possible for the best interest of his daughter. He is aware that I will call 911 immediately if I feel that he is being a threat. He is aware of the serious consequences of his past comments and actions and I do not feel that he is a risk to myself or anyone else in my family at this time."***

***Shooting Incident***
On March 20, 2009, shortly before 9:00 a.m., Mrs. Bradley called 911 reporting her husband was threatening to kill himself and that he was armed with a knife and wanted the police to kill him. During the call Mr. Bradley got on the phone and told the dispatcher, ***"I don't want to live... But if they*** (the police) ***come, I'm gonna make 'em kill me because I don't want to live through life being treated like this."*** Mr. Bradley hung up the phone and the dispatcher called back. Mrs. Bradley answered and cried out, ***"Hurry, please"*** as the phone went dead.

Several uniformed officers, including Officers Scott and Thompson and Sgt. Jess Havin, along with his partner K-9 Earp, responded to the call. The officers talked to Mr. Bradley through the closed and dead bolted front door asking him about his wife. Mr. Bradley told the officers, ***"She's gone! She's dead. It's over!"***

The officers had to force their way inside the home. While the officers were breaking down the front door they could see Mr. Bradley standing inside the home holding a bloody knife. As the officers entered the home they confronted Mr. Bradley when he emerged from a hallway wielding the knife. Mr. Bradley stabbed Earp in the neck then tried stabbing Sgt. Havin. In response, Officers Scott and Thompson both fired at Mr. Bradley, mortally wounding him inside the home. A neighbor next door heard the officers yelling, ***"Drop the knife! Drop the knife!"*** When the officers searched the home they found Mrs. Bradley lying dead on the family room floor from multiple stab wounds.

***Officers' Statements***
Both Officers Scott and Thompson supplied voluntary and recorded statements. Officer Scott said while he was standing at the front door he could see Mr. Bradley holding a big long butcher knife with blood on the knife and on his hands. Scott said Mr. Bradley was yelling, ***"Don't come in here! You're gonna have to kill me! ... If you send that dog, I'm gonna stab that dog! I'm gonna stab whoever comes in here!"*** Scott asked Mr. Bradley where his wife was. Mr. Bradley replied, ***"Dead! I already killed her. She's already dead!"*** After forcing entry, Scott said they began searching the house trying to find where Mrs. Bradley was. When Mr. Bradley came out from around a corner and began stabbing at Sgt. Havin, Scott said he fired at him until he fell to the floor.

Officer Thompson said while standing at the front door he too saw Mr. Bradley with a bloody knife in his right hand. Thompson said when asked where his wife was, Mr. Bradley replied, ***"I killed her! She's dead. It's over."*** After forcing entry, Thompson said he saw Mr. Bradley emerge and begin stabbing Earp and trying to stab Sgt. Havin. Thompson stated, ***"At that point, fearing that he was either going to stab Sgt. Havin or one of us, I fired two rounds."***

***Investigation***
The crime scene was secured and a scene investigation was conducted. The investigation revealed Officer Scott fired five times and Officer Thompson fired twice. Five expended .40 caliber and two expended .9 mm shell casings were recovered at the scene. The casings were located in areas consistent with the officers' stated firing positions. The knife Mr. Bradley used to murder his wife and attack the officers with was found at the scene. Mrs. Bradley was found

dead inside her home on the rear family room floor. She had been stabbed multiple times. The Medical Examiner reported Mrs. Bradley died from multiple sharp force injuries to her neck, chest and extremities. There were no drugs of abuse in her system. The manner of her death was homicide.

Sgt. Havin's police dog, Earp, an 8 year-old German Shepard, sustained a knife wound to his neck. Earp underwent successful surgery at a local veterinarian hospital and recovered.

***Autopsy:***
On March 21, 2009, Dr. Othon Mena from the San Diego County Medical Examiner's Office performed an autopsy on Mr. Bradley. Dr. Mena determined Mr. Bradley sustained gunshot wounds to the head, arms, left thigh and chest. No drugs of abuse were found in his system. The manner of death was 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, Officers Arthur Scott, John Thompson, Sgt. Havin and his K-9 Earp, all responded to an emergency call of a husband attempting to commit suicide with a knife. Unbeknownst to the officers, they were actually responding a domestic violence situation where Mr. Bradley was intending on murdering his wife and then confronting the officers and forcing them to kill him as well. During the incident, Mr. Bradley stabbed his wife to death and then, as the officers broke into the home in hopes of rendering aid to the victim, Mr. Bradley stabbed Earp in the neck and tried stabbing Sgt. Havin before he was shot and killed by Officers Scott and Thompson.

Based on these circumstances, it's apparent Officers Scott and Thompson fired in defense of Sgt. Havin and K-9 Earp as well as in defense of one another. They therefore bear no criminal liability for their actions.

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

Sincerely,

By

BONNIE M. DUMANIS
District Attorney
County of San Diego

BMD:jh
cc: Captain Jim Collins