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BONNIE M. DUMANIS
DISTRICT ATTORNEY

September 22, 2010

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

**Re: Fatal shooting of Mr. Nathan Gable Manning on May 20, 2010 by San Diego Police
Detective Edward Jones; SDPD Case No. 10-025635; DA Special Operations Case No.
10-044PS; Deputy District Attorney assigned: Damon Mosler**

Dear Chief Lansdowne:

We have reviewed the reports and other materials compiled by your department's Homicide Division concerning the fatal shooting of Mr. Nathan Gable Manning by Detective Edward Jones on May 20, 2010. 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 September 1, 2010.

Persons Involved

Mr. Nathan Manning was 31 years old and living with a roommate in an apartment on Adams Avenue in San Diego.

Detective Jones was assigned to investigative duties out of the Mid-City Division. He was in civilian clothing and had his San Diego Police I.D. card displayed on a chain around his neck. Detective Jones was armed with a Smith and Wesson .9 mm semi-automatic pistol.

Background

On Thursday, May 20, 2010, Mr. Montes returned to his apartment where he resided with Mr. Manning. Mr. Montes said Mr. Manning was acting strangely, ranting, saying it was judgment day and he was a demon. When Mr. Manning rushed him and swung at him, Mr. Montes became frightened and fled the apartment running out into the street. When Mr. Montes ran past a nearby auto shop, he told the people there to call the police. Witnesses at the shop saw Mr. Manning pushing and hitting Mr. Montes.

Shooting

Detective Jones was only a short distance away and responded to the radio call. He arrived within a minute and spotted Mr. Manning and Mr. Montes in the street and determined they were the subject of the call for help. Detective Jones parked his car, got out, drew his baton and verbally identified himself as a police officer. He tried defusing the situation by engaging both men in conversation. However, Mr. Manning charged the detective and began choking him around the neck. During the struggle, Mr. Manning also tried to take the detective's gun away from him. While Mr. Manning was choking Detective Jones to the point where he couldn't breathe, Detective Jones drew his handgun and fired once at Mr. Manning. Mr. Manning was struck in the abdomen and transported to a local hospital where he died shortly afterwards.

Investigation

The crime scene was secured and a scene investigation was conducted. Under the left rear driver's side of the car where the struggle took place, detectives located a pair of sunglasses, a black shirt button, a single expended shell casing, a pen and Detective Jones' handcuffs. The antenna of the detective's car was bent and there was a dent in the left rear side of the car below the antenna. The investigation revealed Detective Jones fired one shot. The expended shell casing was located in an area consistent with where Detective Jones said he was positioned when he fired. Mr. Manning's apartment was also searched. Prescription medications, including Carbamazepine were found in his room.

Witness Statements

A number of witnesses saw what took place. Mr. Montes said while he was being chased by Mr. Manning, he called out to people who were nearby asking them, *"Can somebody please help me! ... I was just hoping and praying that a policeman was going to show up soon!"* Mr. Montes said when the officer arrived he told him the problem was Mr. Manning. Mr. Montes said Mr. Manning became instantly confrontational with the officer and went after him. Mr. Montes saw the officer hit Mr. Manning with a baton and wrestle Mr. Manning to the back of his car where they both fell to the ground. Mr. Montes said, *"I could see that they were struggling for his gun!"*

Another witness who was driving by saw Mr. Manning, who she described as *"out of control"* jump toward the detective who was holding a radio and, *"trying to defend himself."*

A third witness saw Mr. Manning shove Mr. Montes into the street and almost into the path of the witness's car. The witness saw an undercover police officer arrive and start talking to Mr. Manning. The witness saw the officer had a *"badge type thing"* hanging around his neck and it appeared the officer was showing his badge. He saw Mr. Manning start swinging at the officer and got the officer in a headlock before they both fell to the ground. The witness said *"most of the time"* during the struggle that Mr. Manning had the officer in a headlock. The witness said, *"I felt like the guy (the officer) needed help."*

Another witness saw Mr. Manning and a detective fighting and both of them fall to the ground. While the detective and Mr. Manning were struggling on the ground, the witness saw Mr. Manning grab the detective's pistol and start pulling it out of the holster. Regarding the detective's situation at the time, the witness said, "***This is someone who needs help!***" The witness saw Mr. Manning grab the officer's gun by the grip and the gun disappear between both men. He then heard a gunshot.

Detective Jones' Statement

Detective Jones supplied homicide detectives with a voluntary and recorded statement. He said he monitored a radio call of two men fighting in street. When he arrived he spotted the two men mentioned in the call, stopped his car, got out and identified himself as a police officer telling both men, "***San Diego Police.***" He said he drew his baton hoping the visual effect of that action would cause the men to stop fighting.

While Detective Jones spoke to the men he saw something came over Mr. Manning because his facial expression changed. Detective Jones said Mr. Manning charged him and responded by hitting Mr. Manning once in the shoulder with his baton. However, the baton strike had no effect. Detective Jones said Mr. Manning was on top of him and began choking him around the neck. During the struggle, Detective Jones said he and Mr. Manning both fell to the ground next to Jones' car. Fearing he would be choked unconscious, Detective Jones said he drew his gun. Mr. Manning saw Jones draw the gun and told him over and over again to shoot him.

Detective Jones said he initially held his fire, but because Mr. Manning continued choking him to the point where he couldn't breathe, he finally fired one shot at Mr. Manning. Detective Jones said he fired because he feared if he was choked unconscious the man would get his gun and shoot him.

Autopsy

On May 21, 2010, San Diego County Deputy Medical Examiner Dr. Steven C. Campman performed Mr. Manning's autopsy. Dr. Campman determined that Mr. Manning sustained a single gunshot wound to the abdomen. Dr. Campman classified the manner of Mr. Manning's death as a homicide. Toxicology tests revealed Mr. Manning had Carbamazepine in his system.

"The U.S. National Library of Medicine Institute of Health defines Carbamazepine as an anticonvulsant and mood stabilizing drug used primarily in the treatment of epilepsy and bipolar disorder. Regarding precautions a patient should take while using Carbamazepine, the literature states, "your mental health may change in unexpected ways and you may become suicidal while you are taking carbamazepine for the treatment of epilepsy, mental illness, or other conditions." A small number of adults ...who took anti-epileptics such as Carbamazepine to treat various conditions during clinical studies became suicidal during their treatment. Some of these people developed suicidal thoughts and behavior as early as one week after they started taking the medication.

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, Detective Jones responded to an emergency call of a fight in the street. Detective Jones was close by and arrived within a minute of the call. He contacted Mr. Manning and Mr. Montes, identified himself as a police officer, drew his baton and tried engaging the men in conversation hoping to stop the fight. However, Mr. Manning charged at Detective Jones and began to overpower him, trying to take the detective's gun away from him and choking the

Chief William Lansdowne

September 22, 2010

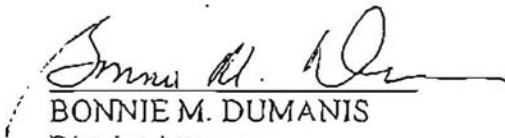
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detective around the neck almost to the point of unconsciousness. Fearing he would be choked unconscious and the subject would get his gun and shoot him, Detective Jones drew his pistol and fired once at Mr. Manning who later died from his wound.

Based on these circumstances, it's apparent that Detective Jones fired at Mr. Manning in self-defense and 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,

A handwritten signature in black ink, appearing to read "Bonnie M. Dumanis", written over a horizontal line.

BONNIE M. DUMANIS
District Attorney
County of San Diego

BMD:jh

cc: Captain Jim Collins