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ASSISTANT DISTRICT ATTORNEY

OFFICE OF  
**THE DISTRICT ATTORNEY**  
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BONNIE M. DUMANIS  
DISTRICT ATTORNEY

February 11, 2008

Sheriff William Kolender  
San Diego County Sheriff's Department  
9621 Ridgehaven Court  
San Diego, CA 92193

**Re: Fatal shooting of Mr. Samuel Ehling on December 23, 2006, involving  
Deputy Chris Steffen; Sheriff's Department Case #06-086981H; DA  
Special Operations Case No. 06-149PS; Deputy District Attorney assigned:  
Richard Monroy**

Dear Sheriff Kolender:

We have reviewed the materials compiled by your department concerning the fatal officer-involved shooting of Mr. Samuel Ehling on December 23, 2006. District Attorney Investigators responded to the scene soon after the incident and were briefed by your investigators.

***Persons Involved***

Mr. Samuel Ehling was 52 years old, stood 5'7" and weighed 226 pounds. He was living with his live-in girlfriend at 715 Pecos Street in Spring Valley. At the time of the incident, Mr. Ehling was armed with a Mauser M48 bolt action rifle. The rifle was loaded with six rounds of ammunition and equipped with a fixed bayonet.

Deputy Chris Steffen was a K-9 handler assigned to patrol duties. He was attired in a standard San Diego County Sheriff's Department uniform and armed with a Glock model 22, .40 caliber semi-automatic pistol.

***Background***

On Saturday, December 23, 2006 at about 11:15 a.m., the Sheriff's Communications center received an emergency 911 call from Ms. Beatriz Divino. Ms. Divino called the Sheriff reporting her live-in boyfriend, 52 year-old Samuel Ehling, was armed with a rifle and was trying to kick her out of their home. Ms. Divino supplied the dispatcher with Mr. Ehling's name, age, physical description and the type of clothing he was wearing. At one point during the call, Mr. Ehling was heard asking Ms. Divino if she was on the phone with 911. Mr. Ehling took the phone away from Ms. Divino and told the dispatcher, "***Send your troops over. Victory and death.***"

The dispatcher remained on the recorded phone line with Ms. Divino throughout the incident. The information Ms. Divino supplied was relayed to the responding deputies as the events took place. Ms. Divino said Mr. Ehling threw her out of the house earlier that day, had taken pills the night before and had been drinking that morning. At one point, Ms. Divino told the dispatcher, ***"He's talking to himself and he said he's ready to die."***

While waiting for the deputies to arrive, Ms. Divino said Mr. Ehling was getting bullets for the gun. When the dispatcher asked Ms. Divino what kind of gun Mr. Ehling was armed with, Mr. Ehling grabbed the phone again and asked the dispatcher, ***"You wanna know what kind of gun?"*** Mr. Ehling told the dispatcher he had an 8mm Mauser, a Mini-14, a Colt revolver and a Davis .380 handgun. When asked if all of the guns were loaded, Mr. Ehling replied, ***"No Just the Mauser. It's a classic. Come and kill me and get it over with okay!"*** When the dispatcher asked why he wanted the deputies to kill him, Mr. Ehling replied, ***"Ah, just don't give me a hard time. Just send your SWAT here and let's get this over with! Okay?"***

After handing the phone back to Ms. Divino, Mr. Ehling fell down the staircase. Ms. Divino told the dispatcher Mr. Ehling was drunk but was still armed with the rifle. Ms. Divino later told the dispatcher she saw Mr. Ehling walk out of the house and towards the street with the gun. Shortly thereafter, at least two gunshots are heard over the phone line and Ms. Divino screamed out, ***"I hear bullets!"***

A second 911 call came into the Sheriff's Department from a neighbor across the street. This caller said her neighbor "Sam" was beating his wife "Betty." The caller said Sam dragged his wife, grabbed and loaded a rifle, and went inside the house. The caller later told the dispatcher Sam looked drunk, was drinking a beer on the front lawn and was armed with a rifle.

### ***Shooting Incident***

Patrol Deputies Chris Steffen, Michael Da Silveira, Michael Lane and Sergeant Jose Sanchez responded to the emergency call of a man with a gun at the Pecos Street residence. When the deputies arrived they staged a block away and then approached Mr. Ehling's residence on foot. The deputies were constantly updated by the dispatcher with the information that was being provided by Ms. Divino and the other 911 caller.

As the deputies took positions of cover in the street in front of the residence, they made the following radio transmissions: ***"The suspect's armed with a rifle. Behind his vehicle. Green camy jacket, hat, red shirt, dark goatee, glasses.... He has a rifle in his lap right now. He's drinking a beer. Telling us to shoot him."***

During the next two minutes the deputies tried to convince Mr. Ehling to put down the rifle. Mr. Ehling was initially standing behind his truck, but eventually sat down on a chair with rollers in the driveway. The deputies were able to see Mr. Ehling sitting in a chair in the driveway holding a rifle equipped with a fixed bayonet. The deputies gave Mr. Ehling verbal commands, ordering him to drop the rifle. However, Mr. Ehling told the deputies they were going to have to kill him.

Deputy Steffen was armed with a semiautomatic rifle when he initially approached Mr. Ehling at the front of the house. There was a brief exchange of words, during which Deputy Steffen asked Mr. Ehling to comply with law enforcement's requests. Mr. Ehling refused, but Deputy Steffen believed that they had a chance at a less lethal option. Deputy Steffen gave his rifle to his sergeant and returned to his patrol car to get his K-9. Deputy Steffen intended on releasing the K-9 in an attempt to disarm Mr. Ehling if he refused to drop the rifle. With Deputies Da Silveira, Lane and Sergeant Sanchez providing cover, Deputy Steffen approached the closed driveway chain link gate with his K-9 on a leash.

As Deputy Steffen approached the closed gate, he saw Mr. Ehling sitting in the chair in the driveway holding the rifle in his lap. While holding his K-9 by the leash, Deputy Steffen kicked open the chain link gate and gave Mr. Ehling the following verbal command: ***"Sheriff's Department with a dog. You need to drop the gun or I'm going to send the dog and he's going to bite you."*** Deputy Steffen said Mr. Ehling's response was, ***"If you send that fucking dog, I'm going to shoot you!"***

Deputy Steffen said as he began to make a second announcement, Mr. Ehling swiveled around in the chair and pointed the rifle at him. Fearing Mr. Ehling was going to fire at himself or the other deputies, Deputy Steffen fired four rounds from his handgun at Mr. Ehling. Mr. Ehling was struck twice, once in the chest and once in the left thigh. Mr. Ehling fell to the ground and died at the scene. Deputy Steffen was not injured.

#### ***Investigation***

The scene was secured and an investigation completed. Located in the driveway was Mr. Ehling's Mauser M48, 8mm bolt action rifle equipped with a fixed bayonet. It was loaded with six (6) rounds of 8mm ammunition with one round in the chamber and five rounds in the magazine. Found sitting on top of Mr. Ehling's truck's tailgate was a box of Remington 8mm Mauser ammunition that contained five 8mm cartridges. Another box of Remington 8mm ammunition containing twenty-one (21) cartridges was found inside the home. Also found on top of the tailgate were a fluted glass of cognac and a bottle of Hennessy Cognac.

Four (4) expended .40 caliber shell casings were recovered at the scene. Ballistics examinations, interviews and shell placement reveal all four of these rounds were fired from Deputy Steffen's handgun.

On December 24, 2006, an autopsy was conducted by Dr. Bethann Schaber of the San Diego County Medical Examiner's Office. Dr. Schaber determined Mr. Ehling sustained two gunshot wounds. One bullet struck Mr. Ehling in the upper left chest and came to rest in his back. This bullet traveled from front to back and left to right with no significant upward or downward deviation. A second bullet struck and perforated Mr. Ehling's left thigh. This bullet traveled from back to front, slightly right to left and slightly upward. There was no soot or stippling associated with either wound.

Toxicological tests were also conducted. Those tests were positive for the presence of alcohol and cannabis in Mr. Ehling's system. The cause of death was determined to be gunshot wounds of the chest and extremity. The manner of death was determined to be homicide.

***Legal Analysis***

This review was conducted pursuant to the joint protocol between this Office and all San Diego County 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.

In this case, uniformed Sheriff's Deputies Chris Steffen, Michael Da Silveira, Michael Lane and Sergeant Jose Sanchez responded to a man with a gun call. When they arrived, they were confronted by an armed and intoxicated subject who, based on his actions and statements, was determined to force the deputies into shooting situation. Deputy Steffen relinquished his rifle and transitioned to a lower force option, his K-9. Deputy Steffen warned Mr. Ehling to drop the gun or the K-9 would be released. Midway through Deputy Steffen's second K-9 warning, Mr. Ehling swiveled in his chair and pointed a rifle at Deputy Steffen who then fired at Mr. Ehling in self-defense.

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 had reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to affect 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 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.’”

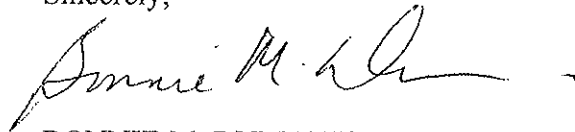
[Citations omitted.]

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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. Under these circumstances, the use of deadly force by Deputy Steffen was reasonable and he bears no criminal liability for the actions he took during this incident.

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

BMD;jh

Cc: Captain Octavia Collins