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Sheriff Donny Youngblood
Kern County Sheriff's Office
1350 Norris Road
Bakersfield, CA 93308

**Re: Officer-Involved Shooting of Daniel Gomez by Deputies Carmen Holguin, Orlando Ramos, and James Jackson on May 7, 2020, at 920 16th St. in Wasco.
KCSO report number 2020-00066469**

Dear Sheriff Youngblood,

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed reports and other materials submitted by your agency regarding the shooting noted above. The OIS Committee reviews cases for criminal liability under state law. The OIS Committee has completed its review. The findings are noted below.

Summary

On May 7, 2020, deputies were dispatched to an apartment complex in Wasco on a domestic violence call. As they approached the apartment building, deputies heard frantic screaming from a woman on the second floor. Deputies rushed upstairs and followed the screams to the apartment door, which was ajar. As they entered the apartment, deputies witnessed a horrific scene as Daniel Gomez was actively stabbing two women with a kitchen knife. Both women were on the bathroom floor, which was covered in blood. The women had been stabbed several times, and one of them was losing consciousness while the other was trying to defend herself from Mr. Gomez, who continued his attack in the presence of deputies. One of the injured women screamed, "Just shoot him!" to the deputies.

Despite Mr. Gomez's active use of a deadly weapon to inflict life-threatening injuries, deputies were unable to shoot him because the injured women were in their line of fire. Deputies repeatedly yelled, "Put down the knife!" but Mr. Gomez ignored their commands. Instead, he

approached the deputies with the knife in hand, backing two of them against a wall and one of them into the tight confines of the apartment kitchen. Deputies could not retreat any further. At one point Mr. Gomez straightened the blade of the knife with his hand and told deputies, "Just shoot me." Deputies made repeated attempts to diffuse the situation, but Mr. Gomez continued to hold the knife in a threatening position while standing merely a few feet from them. Deputies fired multiple rounds from their firearms, killing Mr. Gomez instantly, thereby ending the threat to their lives and the lives of the severely-injured women in the apartment.

Legal Principles and Analysis

A knife is a deadly weapon when used in a manner to cause severe bodily injury. *People v. Herd* (1963) 220 Cal.App.2d 847. Officers may use deadly force if they have probable cause to believe that the suspect posed a significant threat of death or serious physical injury to an officer or others. Courts give great deference to the police when choosing what weapon to use when responding to a threat. *Graham v. Connor*, 490 U.S. 386, 396 (1989). "Detached reflection cannot be demanded in the presence of an uplifted knife." *Brown v. United States* (1921), 256 U.S. 335, 343. The U.S. Supreme Court has recently held that if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended. *Plumhoff v. Rickard* (2014) 572 U.S. 765.

As soon as deputies entered the apartment, they saw Daniel Gomez in the act of an attempted murder upon two defenseless, badly-injured women. Both women were bleeding heavily from multiple stab wounds as Mr. Gomez stood over them while swinging a knife. One of the women appeared to be unconscious and was making gurgling sounds. Faced with a significant threat to the lives of these women, deputies would have been justified in shooting Mr. Gomez immediately upon entering the apartment. However, none of the deputies had a safe shot because the women were in their line of fire.


Mr. Gomez then walked away from the women, ignored repeated commands to drop the knife, and slowly advanced upon deputies with the knife in his hand and backed them into positions where they had nowhere else to retreat. Deputies attempted to deescalate the situation, but Mr. Gomez escalated it by walking within five feet of the deputies while holding the knife, straightening the blade of the knife, and repeatedly telling deputies to shoot him. Mr. Gomez's actions not only created an immediate threat to the lives of the deputies, but they also prevented deputies from helping two women who required immediate emergency care. Considering all these circumstances, deputies were justified in using deadly force to end the deadly threat that Mr. Gomez posed to several people.

Although deputies were equipped with non-lethal weapons, the use of a firearm was the most reasonable weapon to deploy under the circumstances: 1) they could not use pepper-spray in the small apartment without incapacitating everyone inside of it; 2) they could not get close enough to Mr. Gomez to strike him with a baton without getting stabbed by him; and 3) each deputy had experienced multiple situations in which their tasers have malfunctioned or have been completely ineffective at stopping a threat, and under these circumstances they needed a more reliable weapon to stop the deadly threat.

Conclusion

Based upon a review of the evidence submitted by Kern County Sheriff's Dept., Deputies Holguin, Ramos, and Jackson each responded reasonably to a lethal threat in self-defense, and defense of others. There is no state criminal liability for their uses of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,


Cynthia J. Zimmer
District Attorney