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July 19, 2016

Via Hand Delivery
Kurt Picknell
Walworth County Sheriff
1770 County Road NN
Elkhorn, WI 53121

Re: Officer involved shooting of February 24, 2016

Dear Sheriff Picknell:

In regard to the officer involved shooting incident of February 24, 2016, please be advised that I have reviewed all available evidence including reports and statements of Special Agents of the Department of Justice - Division of Criminal Investigations, Walworth County Sheriff's Office, Village of East Troy Police Department, Town of East Troy Police Department, Waukesha County Sheriff's Office, City of New Berlin Police Department, Village of Mukwonago Police Department, Village of Big Bend Police Department, Wisconsin State Patrol, Waukesha/Walworth County Medical Examiner's Office, Wisconsin State Crime Laboratory, citizen and law enforcement witness statements, videos, diagrams, audio recordings, photographs, including those of the scene, the physical evidence, and of the subsequent autopsy. Additionally, on the evening of February 24, 2016, and subsequently, I personally observed the scenes.

The following are the details of the incident pertinent to a determination of whether Walworth County Deputy Sheriff Juan Ortiz's actions of February 24, 2016, were justified. The investigation into this incident was conducted by the Wisconsin Department of Justice – Division of Criminal Investigations.

On February 24, 2016, Officer Jeff Price of the Village of East Troy Police Department was conducting a controlled purchase of controlled substances utilizing the services of a confidential informant. A controlled purchase is normally a law enforcement technique whereby a confidential informant is searched, fitted with an audio and/or video recording device, given pre-recorded U.S. currency, and constantly monitored throughout a prearranged drug deal. In the present case, Officer Price had intended to simply arrest the suspects prior to any transaction taking place.

[redacted]

Officer Price compiled a team of officers including Deputy Juan Ortiz of the Walworth County Sheriff's Office, Officer Craig Knox of the Town of East Troy Police Department and Deputy Matthew Weber of the Walworth County Sheriff's Office. Officer Price knew from his confidential informant that the controlled purchase was to occur at Roma's Ristorante and Lounge (hereinafter "Roma's") at N8416 County Road ES, and that the controlled substances were to be delivered by a Roberto Juarez-Nieves.

Due to an apparent miscommunication, Officer Price's team became separated from one another as they approached Roma's in their vehicles. Arriving first was Officer Knox.

On February 24, 2016, Jose Lara was met at his grandmother's home in Milwaukee by Roberto Juarez Nieves and Christopher Davis. Roberto Juarez Nieves asked Jose Lara to procure ½ ounce of cocaine for him to sell. Lara, Juarez-Nieves, and Davis then traveled to Lara's cocaine supplier's home to acquire the cocaine. Juarez-Neves then informed Lara he would have to drive to the sale because he was on probation and Davis didn't care to drive on the freeway. Lara, Juarez-Nieves, and Davis travelled in Davis' 4 door 2001 blue Pontiac Bonneville (hereinafter "Pontiac").

The Pontiac was parked in the parking lot of Roma's when Officer Knox arrived. Officer Knox, parked behind the Pontiac in an angular-to-perpendicular fashion. The Pontiac was, itself, parked behind two other vehicles.

Roberto Juarez-Nieves saw police vehicles in the parking lot and told Lara to get away as quickly as possible as he was on probation and in possession of cocaine. Lara acquiesced and began to leave the parking lot. As Officer Knox exited his squad, he saw the reverse lights of the Pontiac activate and the Pontiac began to move backward rapidly (east) toward the driver's side door of Officer Knox's squad vehicle and toward Officer Knox himself.

Officer Knox removed his firearm and was forced to side step toward the passenger side of the Pontiac to avoid possibly being pinned between his squad and the Pontiac. Officer Knox then yelled three times "Police, let me see your hands, put your hands on the steering wheel," all while pointing his weapon at the driver of the vehicle. The Pontiac then drove off, forward, and away from Officer Knox at an angle and excessively fast.

Officer Price entered the parking lot and saw Officer Knox with his hand gun pointed at the Pontiac. Officer Price exited his vehicle and pointed his hand gun at the Pontiac as well. Officer Price saw the vehicle proceed forward and away from Officer Knox. Officer Price saw the vehicle accelerate quickly, squealing its tires, and drive directly at the point where he now saw Deputy Ortiz with his weapon drawn in the path of the Pontiac. The entry/exit portion of the parking lot was slightly to the Pontiac's right. Officer Price saw three occupants in the vehicle.

Officer Price was concerned for Deputy Ortiz's safety and changed positions, trained his weapon on the Pontiac again, but could not get target acquisition on the driver so he did not fire. Officer Price heard Deputy Ortiz giving verbal commands to the vehicle then saw Deputy Ortiz attempting to move out of the line of the vehicle while simultaneously firing his weapon. Officer Price heard what he thought were three shots, heard glass breaking, and, only then, did the Pontiac deviate from its course to its right toward the parking lot exit. Officer Price returned to his vehicle and entered the pursuit.

Deputy Ortiz entered the Roma's parking lot and saw Officer Knox exit his vehicle, heard him give verbal commands of "show me your hands," and drew his weapon. Deputy Ortiz, in response drew his as well. Deputy Ortiz then realized his current position placed him in danger of crossfire, so he moved to his left placing him in the vicinity of the exit driveway of Roma's parking lot.

Deputy Ortiz then heard the tires of the Pontiac squeal, heard the engine rev very loudly, and saw the Pontiac coming directly at him. He began to move and felt as if he did not act his life was in danger. While moving he fired his weapon. Only after the first or second shot did Deputy Ortiz see the vehicle deviate slightly from its path and away from him. Despite Deputy Ortiz's attempts to remove himself from the path of the Pontiac, the vehicle passed Deputy Ortiz closely enough he could have reached out and touched the driver's side mirror. Wisconsin State Patrol reports regarding tire tracks and other evidence found at the Roma's parking lot scene, and reports of the State Crime Laboratory regarding bullet trajectory evidence found in the vehicle both support this account. Deputy Ortiz then returned to his vehicle and began pursuit of the Pontiac.

Lara admitted having a "bad feeling" at Roma's and described leaving the parking lot in a curved path and driving toward Deputy Ortiz. Lara said he heard the gun shots and deviated his path and left the area in a panic. Lara maintained that he was not trying to run over Deputy Ortiz, but admitted he could see how Deputy Ortiz would have thought that he was in that moment.

The Pontiac left the Roma's parking lot turning left onto Highway ES and proceeded to take the on ramp onto North Interstate 43. Juarez-Nieves had the cocaine while the Pontiac fled. Lara said he was driving fast on the Interstate and looked over and saw blood all over Davis' face. Davis was not responding but appeared to be breathing and Juarez-Nieves began dumping water all over his head. During the pursuit, Juarez-Nieves threw the cocaine into the driver's compartment of the vehicle, and it landed on the driver's side floorboards. Lara became angry and threw the cocaine out the driver's side window. Deputies from the Waukesha County Sheriff's Office attempted to find the cocaine later but were unsuccessful.

At I-43 and just south of South Moorland Road, Sergeant Johnsen of the City of New Berlin Police Department attempted to deploy stop sticks to stop the Pontiac. The stop sticks were caught in the heavy winds and landed on the windshield of the Pontiac. The Pontiac did not stop and continued to flee.

The Pontiac left Interstate 43 at Moorland Road where it continued to travel at a high rate of speed in and through traffic and ignoring traffic lights. Deputy Ortiz, who remained the first car in the pursuit, attempted a P.I.T., or Precision Intervention Technique, which was unsuccessful but caused the Pontiac to leave Moorland Road. In the turn, Deputy Ortiz again attempted a P.I.T. and was successful in causing the Pontiac to leave the roadway and strike a mailbox.

Lara and Juarez-Nieves fled the Pontiac on foot leaving Davis in the passenger seat. Officer Wilson of the Village of Mukwonago Police Department, Deputy Weber of the Walworth County Sheriff's Office and Officer Kopecky of the Village of Big Bend Police Department believed Davis had a pulse when he was retrieved from the Pontiac, and attempted life-saving measures until emergency medical services personnel arrived. Davis was transported to Froedert Hospital in Milwaukee where he died of his wounds.

Lara was apprehended after a brief foot chase. Juarez-Nieves was apprehended after an extended search of the area.

A review of Deputy Ortiz's weapon revealed that he carried a Glock 17 generation 4 and was issued FC 9mm ammunition. Four (4) spent FC 9mm cartridges were found in the parking lot of Roma's.

An autopsy was performed on February 25, 2016 by Dr. Amy Shell of the Waukesha County Medical Examiner's Office. Dr. Shell reported that she found a gunshot entry wound in the left temple of Davis' head and recovered a projectile from the right, back part of Davis' brain. Dr. Shell's report indicates the cause of Davis' death was a gunshot wound to the head that travelled "left to right; front to back; and slightly downward."

Based on the foregoing, I believe that Deputy Ortiz's actions were privileged as acts of defense of himself or others pursuant to Wisconsin Statutes sections 939.45 and 939.48. I believe that there is no other logical conclusion that can be drawn from the evidence other than that Deputy Ortiz was attempting to prevent himself from being attacked with potentially deadly force and, therefore, Deputy Ortiz was justified in using deadly force in response. I further believe that no reasonable juror could conclude otherwise, and, as such, I do not believe that an inquest is necessary in this case.

It is because of the thorough and professional investigative efforts of the Special Agents of the Division of Criminal Investigations that I am so confident in my analysis. They should be commended for the same.

On February 24, 2016, a young man lost his life and a Deputy Sheriff was forced to utilize his firearm in self-defense. I hope you will all join me in praying for healing for all involved or affected.

If you have any questions or concerns please do not hesitate to contact me. Additionally, please feel free to share this letter with whomever you deem appropriate.

Very truly yours,

Daniel A Necci
District Attorney

cc: SAC David Klabunde – D.O.J. – Division of Criminal Investigations