

Hall of Justice
330 West Broadway
San Diego, CA 92101
(619) 531-4040
SanDiegoDA.com

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

DAVID P. GREENBERG
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN
DISTRICT ATTORNEY

December 9, 2019

Chief of Police David Nisleit
San Diego Police Department
1401 Broadway, Mail Station 700
San Diego, CA 92101

Re: Non-fatal shooting of Mr. Ryan Bowers on January 3, 2019, by San Diego Police Officer M. Steinbach; San Diego Police Case # 19-600058; DA Special Operations Case No. 19-009PS; Deputy District Attorney Assigned: Gregg McClain

Dear Chief Nisleit:

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 purpose of the District Attorney's review is to provide an independent analysis and determine if the shooting was legally justified. As part of our analysis, we have reviewed the materials compiled by your agency's Homicide Division concerning the non-fatal officer involved shooting of Mr. Ryan Bowers inside his residence. The case was presented to the District Attorney's Office for review on September 19, 2019.

Summary

On January 3, 2019, at approximately 9:48 p.m., a 911 call was made to the San Diego Police Department regarding Ryan Bowers who had cut his own throat with a knife. The reporting party told the call-taker the knife had been taken away from Bowers. San Diego Police Officer Matthew Steinbach, along with two additional officers, responded to Bowers' residence.

Bowers' father led Steinbach down a hallway to a darkened bedroom where Bowers was seated on the bed. Both Steinbach and the father stepped inside the bedroom with Steinbach standing closest to the doorway. Steinbach asked Bowers how he was doing, and Bowers stood up from the bed pulled a knife from the front pocket of his sweatshirt and raised his arm and held the knife up.

Steinbach drew his handgun from the holster while moving Bowers' father out of the room. He directed Bowers to drop the knife. Bowers did not comply and stepped forward toward Steinbach with the knife pointed at him. Steinbach fired two rounds from his handgun as he backed out of the bedroom.

Bowers was struck once in the chest and fell to the floor. The knife fell from Bowers' hand and landed on the floor just to the left of Bowers. Steinbach along with another officer administered medical aid until relieved by paramedics. Bowers was transported to UCSD Medical Center where he underwent surgery for injuries related to the gunshot wound and other self-inflicted injuries.

Persons Involved

Bowers was a 25-year-old resident of the City of San Diego at the time of this incident. Steinbach had been employed as a police officer working in a patrol assignment for six years, eight months with the San Diego Police Department and was in full uniform on the date of the incident.

Civilian Witness One (CW1)

On January 3, 2019, CW1 received two telephone calls from her father, CW2, at 9:24 p.m. and 9:35 p.m. CW2 was crying hysterically and asked her to come over and help because CW2 couldn't handle Bowers by himself. CW2 told her that CW1's brother, Ryan Bowers, had slit his own throat. She could overhear CW2 talking to Bowers during her phone conversation with CW2. CW2 was telling Bowers a band aid would not stop the bleeding. She also heard CW2 asking about the knife and confirming that Bowers had put the knife down. She heard Bowers admit he had another weapon.

CW1 told CW2 to call the police, but CW2 was hesitant. CW2 finally agreed police should be called. CW1 called police dispatch on another phone while continuing to talk to CW2. CW1 told the dispatcher that her father had called her and told her that her brother Ryan Bowers had cut his own throat. CW1 gave her CW2's address and phone number to the dispatcher and indicated she also would be en route.

In her statement to the police after the incident, CW1 said CW2 told her Bowers had a small steak knife in his pocket, which he pulled out. Bowers did not put the knife down when approached by the police officer. She also stated that Bowers is manic bipolar. Bowers has tried to commit suicide on several occasions. Prior to the shooting, Bowers had taken pills, swallowed glass, a battery and tried to jump off the I-805 bridge. Surgeons removed the battery and a mechanical pencil he had swallowed approximately a week prior to the shooting.

Civilian Witness Two (CW2)

CW2 said his son, Ryan Bowers, suffers from bipolar disorder and was in a depressed manic state. Bowers was diagnosed about two years earlier and has made possibly five or six suicide attempts. CW2 said someone from the Psychiatric Emergency Response Team (PERT) was at his house approximately one month prior doing a follow-up visit with Bowers. About a week prior, Bowers attempted to jump from the I-805 freeway in the area of I-8 and was taken to a hospital on a psychiatric hold. He said while Bowers was hospitalized, he tried to swallow pens and continued his attempts to kill himself.

CW2 said on the day of the incident, Bowers showed CW2 a cut he had inflicted on himself to his neck. CW2 tried to clean the wound and apply direct pressure to Bowers' neck but he was unable to stop the bleeding. He explained that he was a retired firefighter and was aware of the need for an ambulance. He said he didn't want to call an ambulance because he was concerned something like this would happen. CW2 said he called his daughter and told her what happened. She called 911. The 911 dispatcher called CW2 and he provided an update on what happened and Bowers' current condition.

He said he was in the bedroom with Bowers holding pressure on the wound waiting for an ambulance to arrive. He said he told Bowers to give him all the knives he had in his possession. Bowers gave CW2 the folding pocket knife which he believed Bowers used to cut his neck. He heard the police knock on the door and he let them in. He said he told the officers not to hurt Bowers. He also believed he told the responding officers Bowers still had a knife.

CW2 said Bowers was laying on the bed and he told Bowers to stay calm. Bowers had a small fixed blade paring knife in his jacket pocket. He stood up and brought out the knife as he walked toward the officers. CW2 said the officers told Bowers to drop the knife, but he continued to walk toward them with the knife. He said when Bowers was about two-three feet away from the officers, they shot him in the chest two times as they pushed CW2 into the hallway.

CW2 added the officers didn't need to shoot him as he believes he could have gotten the knife away from Bowers. He said that was the reason he did not want to call 911.

Statement of Law Enforcement Witness One (LE1)

LE1 said he was dispatched to a call of an individual threatening suicide along with LE2 and Steinbach. He said the initial reporting party called, advising that Ryan Bowers was threatening suicide and he was cutting his own throat. Another reporting party, CW2, provided an update stating he was with Bowers inside their apartment. He said Bowers was manic and was yelling and screaming. He said he had taken the knife away from Bowers.

LE1 said it was a little ambiguous because information was coming in so quickly. He said he didn't know if the suspect had already cut his throat or if he was just threatening to cut his throat. The one thing that was clear, based on the radio call, was the father had taken the knife away and the son wasn't in possession of a weapon of any kind.

LE1 said they arrived at the apartment and paramedics were on scene with them but were standing back and were getting their gear out of the rig. LE1 described the apartment as being in an area which was directly accessible from the street.

LE1 went to the apartment with Steinbach and they knocked on the door. He said it took 30-40 seconds for someone to come to the door and as they waited, they did not hear anything coming from inside the apartment. CW2 opened the door and immediately started walking back to a bedroom in the back of the apartment. LE1 said they tried to get information from CW2 right away, but he just walked straight back to the bedroom. He said they didn't have time to talk with CW2 about what was going on with his son. LE1 said as they followed CW2 in the hallway and the bedroom door was closed, CW2 opened the door and mumbled something to the effect of, "my son's right here."

LE1 added the only reason they went directly into the residence was because they had been advised over the radio that the father had disarmed his son and taken the knife away. He said their primary reason for immediately entering the residence was to provide medical attention because the son had possibly cut his own throat.

CW2 stepped inside the room in front of Steinbach and LE1 was behind Steinbach. He said they were trying to move CW2 aside so they could access Bowers who was seated on the bed.

LE1 tried to enter the room, but it was a small narrow doorway and small hallway, so they were kind of stuck there, according to LE1. At this point, Steinbach was in front of him just to his left. He said it was dark inside the room and Steinbach tried to turn the light on, but it wasn't working. LE1 said he also tried to turn on the lights, thinking maybe Steinbach missed the switch. There was a single candle and a space heater illuminating the room. LE1 said when he noticed the light didn't work, he used his flashlight to provide light for Steinbach.

He said Bowers stood up right away as Steinbach began to speak with him. LE1 said they were going to handcuff Bowers based on the information from the radio call. Bowers stood up and turned to his left, facing the officers and CW2. LE1 moved to Steinbach's right so he could see what was happening, visually scan for any weapons, and assist with handcuffing. He said at that point, he saw the knife and believed Bowers had it in his possession the entire time. LE1 said Bowers had a silver colored, three to four-inch knife in his right hand.

Bowers was four to six feet from Steinbach. As LE1 was looking over the right shoulder of Steinbach, he said it looked like Bowers lunged toward Steinbach with the knife. Steinbach started to back up and CW2 was still in room. LE1 said they tried to pull CW2 out and away from the bedroom, so he was not in danger. He said LE2 was dealing with CW2 when LE1 thought he heard Steinbach say, "Put the knife down. Put the knife down." At that point, LE1 started to draw his firearm from his holster. LE1 felt stuck in the door jamb and tried to grab Steinbach's belt to pull him out of the situation. At that time, Steinbach fired two shots and retreated into the hallway. LE1 said he was to the left of Steinbach and he drew his firearm as well because he saw the knife. Bowers fell onto his back at the foot of the bed, with his feet toward the door. The knife dropped from his right hand and landed six to eight inches from his left hand. Bowers was still moving and mumbling after he was told: "Don't touch the knife. Don't touch the knife." Bowers said, "I'm not" or something to that effect.

LE1 said after Bowers was no longer moving or touching the knife, he holstered his firearm and he and Steinbach dragged Bowers out of the room. They controlled Bowers' hands to ensure he was not able to access any additional weapons as they assessed Bowers for injuries. Bowers had two gunshot wounds and Steinbach and LE1 provided first aid by applying direct pressure to the wounds until paramedics arrived. LE1 secured the scene by remaining inside the bedroom to ensure no one entered the room or tampered with anything.

Statement of Law Enforcement Witness Two (LE2)

LE2 did not see the shooting or Bowers' actions leading up to the shooting. However, he was able to provide some detail regarding what happened prior to and immediately following the incident.

LE2 said he was assigned to a radio call of a man with a knife threatening suicide where he had either cut or was in the process of cutting his own throat. He responded to the call along with Steinbach, LE1, and San Diego Fire Department personnel. While driving to the call, LE2 asked dispatch to clarify whether the male was still armed with the knife which dispatch advised the male had been disarmed. LE2 told dispatch medics were clear to respond directly to residence, given the information LE2 was told about the man no longer being armed.

LE2 said he was with Steinbach and LE1 as they entered the apartment. He provided a similar description of the event to this point as LE1 and Steinbach. LE2 said he waited near the front door of the apartment as LE1 and Steinbach followed CW2 inside the apartment and contacted Bowers. LE2 said almost immediately he heard Steinbach say, "Drop the knife," followed by the sound of two gunshots.

LE2 ran to where LE1 and Steinbach were in the hallway and saw LE1 attempting to retreat or step back quickly out of the bedroom. He said LE1 moved just inside the doorway of the adjacent bedroom while Steinbach remained in the doorway of Bowers' bedroom. LE2 saw CW2 run toward him and said he pushed CW2 aside. He said he saw LE1 drag Bowers out of the bedroom and start to provide

first aid. LE2 said he escorted CW2 outside the apartment to the bottom of the stairs where he sat with him while LE1 and Steinbach tended to Bowers' injuries.

Statement of Officer Matthew Steinbach

Steinbach was interviewed by investigators and gave a voluntary statement. Steinbach said he was responding to a radio call of a male who had attempted to slash his throat with a knife. He said two other officers, LE1 and LE2, had been assigned to the call and he volunteered to respond as a third unit due to the nature of the call.

While on his way to the call, dispatch advised the knife had been taken away from the subject. Steinbach was uncertain if the subject had cut himself or if he had only threatened to do so prior to the knife being taken away. Steinbach said he thought the call was possibly a call for medical aid based on the information provided.

He arrived at the call along with LE1 and LE2 and located the apartment on the second floor. He walked up the stairs to the apartment with LE1 and LE2 both behind him. He knocked on the door and heard someone inside say it was locked. Steinbach waited but when no one came to the door, he identified himself as the San Diego Police and knocked again. As they stood outside the door waiting, he said he was thinking about how he wanted to get inside the residence because he didn't know if the subject needed immediate medical attention. He thought if the male had slashed his throat, he could easily be bleeding out. Steinbach said he felt comfortable entering the residence and contacting the person because he believed, based on the information he had received up to that point, the knife had been taken away and the male was no longer armed.

Steinbach said the door to the apartment opened and he was greeted by CW2. Steinbach asked where the subject was. CW2 turned and walked quickly down the hallway inside the apartment toward a bedroom at the end of the hall. Steinbach followed CW2 and as they walked, CW2 said he didn't want police to hurt his son. Steinbach responded by stating he did not want to do that. Steinbach said his experience has been with calls where there's either some type of mental illness or someone wants to hurt themselves. The family is generally concerned law enforcement may end up hurting them or taking some enforcement action. CW2's statement was something Steinbach had experienced in similar calls from other family members. He understood the family did not want to see the person hurt in the process of getting them help.

Steinbach entered the bedroom behind CW2. The lights in the bedroom were off and the room was dark. There was a light switch on the wall to Steinbach's left. He moved the switch to the on and off position to illuminate the room, but nothing happened.

He could see Bowers sitting on the bed. He had what looked like a lit cigarette, cigar or a Vape pen in his left hand. Steinbach wasn't sure what he had but it was some type of lighted substance. He asked Bowers, "Hey bud, how you doing?" Bowers put the item from his left hand down, reached into the front pocket of his sweatshirt with his right hand and pulled out a silver, fixed blade knife with a blade that was approximately three inches long. He said Bowers held the knife by the handle with blade facing away from his body.

Bowers stood up from the bed and raised the knife with his hand outstretched and the blade pointing downward. Steinbach said he drew his firearm from the holster, pointed it at Bowers and told him to back up. He said Bowers raised the knife above his head with the blade pointed forward toward Steinbach and CW2. Bowers began to step forward toward Steinbach despite being told to back up. CW1 stepped in front of Steinbach with his arms out toward Bowers. Steinbach said he grabbed CW2 with his left hand and pulled him out of the bedroom.

Bowers continued to move forward toward Steinbach and Steinbach fired two rounds. Steinbach estimated the distance he was from Bowers was four to five feet when he fired his weapon. He said he fired his weapon because Bowers had the knife and he was advancing on him, holding it in a threatening manner. Steinbach said it was clear Bowers was no longer trying only to harm himself. He was not complying with any of Steinbach's commands. Steinbach stated he believed Bowers was going to either stab him or his father, so he fired his weapon to prevent that.

Steinbach said after he fired the two rounds, Bowers fell to the ground next to the bed and the knife landed on the floor to the left of Bowers. Steinbach moved to a position in the hallway adjacent to the bedroom. Following the shooting, Steinbach and LE1 dragged Bowers from the bedroom into the hallway and began to provide medical aid. He said paramedics were already on scene and were inside the apartment within 20 to 30 seconds.

Investigation

The crime scene was secured, photographed, and investigated by San Diego Police Homicide detectives. All detective reports, crime-scene investigator reports, audio-recorded witness interviews, recorded 911 calls, and Body Worn Camera (BWC) video were reviewed. All evidence was found to be consistent with the officers' statements and the statements of the civilian witnesses.

Steinbach, LE1 and LE2 were each equipped with BWC. The time stamp for the BWC video is reflected in Coordinated Universal Time (UTC). This analysis has converted all times and reflected them as Pacific Standard Time (PST). The video footage captured on Steinbach's BWC shows the entire event including the moments leading up to and immediately following the shooting. Steinbach, LE1, and LE2 each activated their respective BWC prior to contacting CW2 or entering the residence. The BWC footage corroborated the officers' statements.

The respective videos show Steinbach being greeted by CW2 and then being led through a hallway into a bedroom where Bowers is contacted. CW2 entered the darkened bedroom ahead of Steinbach. Steinbach can be seen reaching to his left just inside the door for the wall light switch to turn on the bedroom lights. Despite manipulating the switch between the on and off positions several times, Steinbach was unable to turn the lights on. The video shows Bowers seated on the left side of the bed as viewed from the doorway. At this point, Steinbach is estimated to be two to three feet inside the bedroom. When CW2 approached Bowers and looked at him, CW2 can be heard stating, "Put that, put that- what do you got?" as Bowers stood up from the bed.

LE1 entered the apartment behind Steinbach. LE1 moved into an adjacent bedroom as Steinbach drew his firearm from the holster. Bowers can be seen on both LE1 and Steinbach's BWC standing up from the bed as he raised a knife in his right hand.

CW2 reached out with his right arm while moving toward Bowers. Steinbach grabbed CW2 and pulled him to the left and out of the bedroom. Steinbach is heard telling Bowers to drop the knife. Steinbach fired his handgun twice as he moved out of the bedroom. Bowers fell to the floor with his back against the foot of the bed. The knife is seen on floor to the left of Bowers. Steinbach instructed LE1 to pull Bowers out of the bedroom and into the hallway. Steinbach and LE1 evaluated Bowers for injuries and applied direct pressure on his wounds.

An examination of the scene revealed that Bowers was armed with a knife. Two expended 9mm casings were found in the bedroom. One was located inside the bedroom on carpet near the doorway and the other was found on a glass table adjacent to the northwest wall of the bedroom.

Steinbach used his department-issued Sig Sauer model P229 9mm handgun during this incident. A post-shooting examination of the weapon was completed. The examination indicates that if, at the time of the shooting, the handgun was loaded consistent with Steinbach's statement, he fired a maximum of two rounds. One bullet was removed from inside of the mattress/bed.

A post-incident blood sample was obtained from Bowers. Toxicology test results detected that Bowers' blood was positive for methamphetamine at the level of 228 ng/mL, and amphetamine at the level of 52 ng/mL. Bowers' blood was also positive for risperidone at the level of 4 ng/mL, and 9-hydroxyrisperidone.

Bowers sustained one gunshot wound to his chest. He underwent surgery at UCSD Medical Center. He recovered and was charged with Exhibiting a Deadly Weapon to a Police Officer, Resisting by Means of Threats and Violence, and Possession of Narcotic Paraphernalia. On December 2, 2019, the court granted Bowers' motion for mental health diversion, for which he was found eligible.

Legal Standards of Criminal Liability

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 purpose of the District Attorney's review is to provide an independent analysis and determine if the shooting was legally justified.

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. 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.’”

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. *Graham v. Connor* (1989) 490 U.S. 386, citing *Terry v. Ohio*, 392 U.S., at 20-22.

In addition to 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. A person acts in lawful self-defense or defense of another if he or she reasonably believed that he or she or someone else was in imminent danger of suffering bodily injury, believed that the immediate use of force was necessary to defend against that danger, and used no more force than was necessary to defend against such danger.

Conclusion

San Diego Police officers responded to a radio call regarding Bowers threatening suicide with a knife by cutting his own throat. While responding, officers were advised Bowers had been disarmed by a reporting party. Steinbach contacted Bowers, whom he believed to be unarmed and in need of medical attention. As Steinbach entered Bowers' bedroom calmly and asked how he was doing, Bowers stood up, pulled a knife from his pocket and raised the knife as he walked towards the officer. Despite Steinbach's commands to drop the knife, Bowers continued to advance toward Steinbach in the confined area of the bedroom while holding the knife up. Steinbach feared he or Bowers' father would be stabbed by Bowers and fired two rounds striking Bowers once in the chest.

Under these circumstances, Officer Steinbach acted reasonably and bears no state criminal liability for his actions. A copy of this letter, along with the materials submitted for our review, will be retained for our files.

Sincerely,



SUMMER STEPHAN
District Attorney

SS:gm

CC: Captain Tom Underwood
San Diego Police Department
Homicide Division
1401 Broadway, Mail Station 713
San Diego, CA 92101