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DISTRICT ATTORNEY
SALT LAKE COUNTY
SIM GILL

HAND DELIVER

March 26, 2012

Chief Thayle "Buzz" Nielsen
West Valley City Police Department
3575 South Market Street
West Valley City, UT 84119

Re: Officer Involved Critical Incident – December 29, 2011

Dear Chief Nielsen:

After working in conjunction with the West Valley City Police Department, the Salt Lake County District Attorney's Office has completed its investigation concerning the use of deadly force against Kent Ashworth by Officer J. Averett, Officer K. McLachlan, and Detective L. Johnson from the West Valley City Police Department. The incident occurred on December 29, 2011 at 2805 S. 3600 W. in West Valley City. The purpose of the review is to determine whether the force employed was lawful under Utah law.

On December 29, 2011, at approximately 6:50 A.M., Kent Ashworth arrived at the home of Lori Ashworth, his ex-wife. Mr. Ashworth was permitted into the home and eventually went to his son's locked gun safe. Desiring entry into the locked safe, Mr. Ashworth used a shovel to pry open the safe's top portion. Eventually, Mr. Ashworth was able to pry the safe open enough to obtain a .45 caliber handgun.

After obtaining the handgun, Mr. Ashworth drove to a Wal-Mart in West Jordan where he purchased a box of 50 rounds of .45 caliber Winchester ammunition. A receipt, that was later located in Mr. Ashworth's vehicle, shows that the transaction took place at 8:37 A.M. on December 29, 2011.

Beginning at approximately 10:00 A.M., West Valley City employees began noticing a male, later identified as Kent Ashworth, in a green Ford Ranger pickup truck parked near the West Valley City Shops, located at 2805 S. 3600 W. in West Valley City. Lori Ashworth also noticed Mr. Ashworth parked at the location at approximately 1:00 P.M. The West Valley City Shops provide gasoline and maintenance for West Valley City vehicles, including police vehicles, which are commonly seen in the area.

Officer J. Averett, of the West Valley City Police Department, was involved in a training located in the rear parking lot of the city shops on December 29, 2011. At approximately 3:45 P.M., Officer Averett left the training and parked his marked police vehicle near a driveway of the city shops. While parked in the driveway, Officer Averett noticed a green Ford Ranger pull up directly behind his police vehicle. The driver of the truck, later identified as Kent Ashworth, stopped and exited the truck. In response, Officer Averett exited his vehicle.

Outside the vehicle, Officer Averett stated Mr. Ashworth "asked if I had a gun." Officer Averett then observed Mr. Ashworth reach behind his back and Officer Averett gave repeated demands to Mr. Ashworth to show his hands. Mr. Ashworth pulled his hands out from behind his back and he displayed a handgun. In response, Officer Averett retrieved his own weapon and repeatedly yelled at Mr. Ashworth to drop the gun, while retreating backwards away from Mr. Ashworth, who continued walking towards Officer Averett. Officer Averett is heard on the dispatch recording stating, "I have a male with a gun in front of the city shop," and "drop the gun!" Mr. Ashworth did not comply with Officer Averett's demands and he continued to hold the handgun, pointed down in his right hand. Officer Averett remembered both of them circling their vehicles two times with Mr. Ashworth advancing towards Officer Averett, who continued walking backwards.

While Officer Averett was on the passenger side of his patrol vehicle, Mr. Ashworth was on the driver side of the vehicle and told Officer Averett that his weapon was not fake. Mr. Ashworth then pointed the gun across his chest and fired one round across 3600 West. The bullet struck a business complex across the street.

Hearing the dispatch communication, Officer K. McLachlan, of the West Valley City Police Department, drove over to assist Officer Averett. Officer McLachlan arrived at the scene and stood at Officer Averett's side. Both officers backed between the two parked vehicles and Mr. Ashworth followed them, continuing to advance on the officers.

Detective L. Johnson, of the West Valley City Police Department, heard Officer Averett's request for assistance and drove to the city shops. As Detective Johnson approached the scene, he saw Mr. Ashworth with a gun in his hand, approaching Officers Averett and McLachlan as they were backing away from him, giving orders to drop the gun. Detective Johnson parked his car, grabbed his .223 rifle, and used his engine as cover.

Officer Averett saw that Mr. Ashworth was advancing his pace towards the officers. Officer McLachlan saw Mr. Ashworth begin to raise his gun. Detective Johnson saw that Mr. Ashworth was not responding to the officers and was continuing to advance on them. All three officers opened fire on Mr. Ashworth, who later died from the gunshot wounds.

Multiple witnesses observed this incident and their statements corroborate the officers' version of events. Specifically, one witness wrote that he saw a man with a gun, an officer yelled at the man to drop his gun "over and over," the officer backed away but the man continued moving toward the officer, another officer arrived and they both yelled at the man to drop the gun, the man "looked like he went to point the gun at the officers then they both fired." Another witness wrote he saw a man with a gun in his hand, the officer was moving away from

the man but he “kept coming towards him,” the man fired a shot, other officers arrived and surrounded the suspect who “raised his weapon and several shots were fired at the man.”

Over two minutes elapsed between the time Officer Averett reported to dispatch that there was a man with a gun and the later statement that shots were fired. The original dispatch call by Officer Averett stating that there was a man with a gun was at 3:48:29. The dispatch call stating that shots were fired was at 3:50:33.

The officers’ guns were later examined to determine how many rounds of ammunition were fired from each weapon. Officer Averett’s handgun had 5 rounds of ammunition missing; Officer McLachlan’s handgun had 5 rounds missing; and 4 rounds were missing from Detective Johnson’s rifle.

An autopsy was conducted on Kent Ashworth at the Office of the Medical Examiner on December 30, 2011 by Dr. E. Christensen, who reported that Mr. Ashworth died of multiple gunshot wounds. Dr. Christensen advised that Mr. Ashworth was hit at least 12 times by gunshot rounds. Additionally, toxicology results noted that Mr. Ashworth’s blood alcohol level was .35.

Officers documented the scene and found several items. Near Mr. Ashworth’s body, officers located the handgun he was holding, which was a .45 caliber handgun. One round of Winchester brand ammunition was chambered in the barrel and an additional round was in the magazine. One brass Winchester .45 shell casing was also found at the scene, indicating a round was fired at the scene from Mr. Ashworth’s handgun. Across the street, officers located a hole in the brick wall of the business complex, caused by Mr. Ashworth’s fired weapon, along with debris from the wall and bullet fragments.

Several items of note were found by officers who searched Mr. Ashworth’s vehicle. Officers located 22 spent shell casings and 21 live rounds of ammunition, all of them Winchester brand. Officers also located a Wal-Mart receipt indicating ammo was purchased on December 20, 2011 at 8:37 AM. A box of Winchester brand .45 caliber ammunition was located in the vehicle as well.

Kent Ashworth’s cell phone was located and officers later searched it. Multiple text messages sent from the cell phone were found. On December 27, 2011 at 8:24 PM, the message “I dont want you to watch me no more” was sent to Lori Ashworth. On December 28, 2011 at 10:38 PM, the message “Who are you going to be rude to when im dead” was also sent to Lori Ashworth.

This office has concluded the force employed by Officer Averett, Officer McLachlan, and Detective Johnson was legally justified under Title 76, Chapter 2, Part 4 (1953 as amended). Specifically, under 76-2-404 (1)(c).

If you have any questions or concerns regarding the determination made in this case, or otherwise wish to discuss the matter, please feel free to contact our office to set up a personal meeting.

Sincerely,

SIM GILL,
Salt Lake County District Attorney

SG/NJE/nje