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June 11, 2024

Sheriff Kelly Martinez
San Diego Sheriff's Department
9621 Ridgehaven Court
San Diego, CA 92123

Chief Scott Wahl
San Diego Police Department
1401 Broadway
San Diego, CA 92101

Re: Discharging of Firearm at Gene Domine on May 7, 2023, by San Diego Sheriff's Deputy Justin Williams; San Diego Police Department Case No. 23-019542; DA Special Operations Case No. 23-044PS; Deputy District Attorney assigned: Carlos Campbell

Dear Sheriff Martinez and Chief Wahl:

We have reviewed the reports and other materials compiled by the San Diego Police Department's Homicide Division concerning the circumstances leading to the discharge of a firearm at Gene Domine by San Diego Sheriff's Deputy Justin Williams on May 7, 2023. A District Attorney Investigator responded to the scene and was briefed about the incident. This case was submitted to the District Attorney's Office for review on September 6, 2023.

Summary

On May 7, 2023, at approximately 12:28 p.m., San Diego Sheriff's Department communications center received a 911 call to the Iglesia Ni Cristo (Church of Christ), located at 1418 Calle Jules in the City of Vista. The reporting party stated a church member, Gene Domine, was on church property in possession of a firearm, which he was pointing at his head. Dispatch advised the reporting party to have people exit the church. The reporting party advised there was only one way in and out of the church, and people could not exit the property without being seen by Domine.

Deputy Williams arrived on scene in the church parking lot with LE1 and LE2. In the parking lot, deputies contacted church members, who confirmed that Domine was still on church grounds in possession of a firearm. Deputies ultimately contacted Domine as he walked out of the church property toward them. Domine approached deputies while holding a handgun in his right hand. Domine had his right arm extended straight out to the side while holding the grip of the firearm between the tips of his fingers and thumb, causing the barrel of the firearm to be pointed downward.

Williams, LE1, and LE2 pointed their firearms at Domine and gave him multiple verbal commands to drop the firearm. Williams specifically told Domine that he did not want to shoot him and pleaded with him to drop the firearm. Domine told Williams to shoot. Domine ignored the deputies' commands and continued to hold the firearm in the same fashion and walk into the parking lot toward the deputies and numerous church members. Williams ultimately fired his firearm at Domine, causing injury to his legs. Deputies provided medical care and took Domine into custody. Domine was transported to the hospital for treatment and was later released without charges.

Persons Involved

At the time of this incident, Domine was a 77-year-old resident of Oceanside, CA. Williams was a deputy with the San Diego Sheriff's Department and had been employed for approximately three years. He was previously employed as a police officer at the City of Davis Police Department.

Civilian Witness One (CW1)

CW1 and Domine are married. CW1 and Domine attended the morning service at their church. According to CW1, everything seemed fine with Domine at the service. CW1 did not notice anything out of the ordinary and they returned home. Domine told CW1 he wasn't feeling well and asked CW1 if he took a double dose of his medicine. CW1 and Domine slept for about an hour and returned to the church so CW1 could help complete paperwork in the office. Domine stayed in the car at first, then exited and walked around the church property as he usually does. Domine entered the church office and told CW1 that nobody liked him. CW1 told Domine that wasn't true and Domine responded, saying that the only way to stop the pain was to kill himself but their religion prevented it. Domine removed a firearm from his waistband and pointed it at the side of his head. CW1 told Domine to stop and Domine told CW1 to back off. Domine put the gun back in his waistband and exited the office. CW1 stayed in the office and then heard a gunshot a short time later. CW1 did not witness the shooting.

CW1 said Domine speaks and understands English. He does not need hearing aids but does have trouble hearing at times. Domine's legs were wounded in Vietnam, and he endures a lot of physical pain from the injury. He takes medication daily for depression and took it in the morning with breakfast. Domine has been sad for years about the chronic pain and feels useless because of it. He recently stopped going to therapy a couple months ago. Domine carries a firearm whenever they go to church and usually carries it in the right side of his waistband.

Civilian Witness Two (CW2)

CW2 is Domine's teen grandson. CW2 was attending a meeting in the main sanctuary of the church when another church member came and told CW2 that Domine was in the office with a gun to his head. CW2 went to the office and saw Domine holding a firearm to his head. Domine was yelling something that CW2 could not understand. CW2 went to the parking lot area to meet with his parents and saw deputies arriving. The deputies were in uniform and their lights and sirens on their patrol vehicles were activated. Domine was dangling the firearm in his hand when deputies contacted him. CW2 heard deputies give verbal commands, telling Domine to drop the firearm. CW2 heard a gunshot and turned away because he did not want to see what was going

on. He heard Domine groaning and went to be with his parents. CW2 usually sees Domine once or twice a week and was not aware of his specific medical issues but believed Domine had some issues hearing.

Civilian Witness Three (CW3)

CW3 is Domine's adult grandson. CW3 was attending a meeting in the main sanctuary with CW2 and other church members. Someone ran into the sanctuary and said Domine had a gun to his head. CW3 ran to the office area and saw Domine holding a gun to his head. There were other church members in the office and Domine was yelling trying to get people's attention. CW3 could not understand what Domine was saying due to his accent. CW3 told everyone to get out of the building and tried to calm Domine down and talk to him. CW3 left the office to look for someone else to help. By the time CW3 got back to Domine, all the other church members were gone and Domine seemed to have calmed down. Deputies arrived and gave CW3 commands to walk out to them. CW3 put his hands up and walked to the deputies in the parking lot. At this time, Domine started walking toward the deputies while dangling the firearm from his hand by the grip.

CW3 was yelling at Domine, telling him to put the firearm down and to listen. He did not understand why Domine wouldn't drop the firearm and was worried Domine would be shot due to being a threat. CW3 said Domine had enough time to put the firearm down while walking from the office to the parking lot. CW3 did not know why Domine was dangling the firearm and felt that if he was doing it with the right intentions, then he would have just dropped it and let deputies arrest him. CW3 heard deputies giving Domine numerous verbal commands to drop the firearm, but he did not comply with their commands. CW3 turned away and then heard a gunshot.

CW3 observed deputies provide medical care to Domine. He believed Domine understood the commands deputies were giving him and said Domine had some hearing issues but not to the point where he couldn't hear the commands. CW3 believed what happened was the best outcome because nobody else got hurt. He believed there was nothing else the deputies could have done and there was no other way to deescalate the situation.

Civilian Witness Four (CW4)

CW4 is Domine's daughter. CW4 left church after the 10:00 a.m. service and later started receiving telephone calls and text messages from church members saying something was wrong with Domine. She returned to the church to find her sons, CW2 and CW3. CW4 was focused on finding her sons and couldn't remember what exactly people were telling her about Domine. CW4 saw deputies arrive in the parking lot and heard sirens. She saw CW3 near Domine and started yelling at him to get away. She did not remember hearing Domine say anything but did hear deputies giving him commands to drop the firearm. She believed Domine was able to hear and understand their commands. CW4 did not want to look at what was going on and then heard a gunshot. CW4 described Domine's injuries from the war and that he takes antidepressant medication. In 2017, Domine changed medications and CW4 noticed some behavioral changes. Domine has been complaining of intense leg pain recently.

Law Enforcement Officer One (LE1)

LE1 arrived in the church parking lot with Williams and LE2. As they were in route to the church, LE1 heard Williams ask dispatch to tell the church members to evacuate. LE1 armed himself with his department-issued shotgun when he arrived in the parking lot. Williams and LE2 armed themselves with their department-issued rifles. LE1 approached the entrance to the church property with Williams and LE2. As they approached, a church member told LE1 that a male was armed with a firearm and was yelling at people. The church member described the firearm as being similar to LE1's handgun, which was a Glock. CW3 exited the church property into the parking lot with his hands raised in the air. CW3 told deputies that Domine was inside the church property and armed with a firearm. LE1 observed Domine exit the church office holding a firearm in his right hand. It appeared Domine was holding the firearm by his pinky inserted in the trigger guard. LE1 and other deputies began giving Domine verbal commands, telling him to drop the firearm. LE1 believed he gave Domine at least fifteen verbal commands during the incident. Williams became the primary deputy addressing Domine and continued to tell him to drop the firearm. Domine seemed to focus on Williams and continued to walk into the parking lot. Domine's right arm was extended out to the side, and he was still holding the firearm with his pinky finger in the trigger guard. LE1 believed the barrel of the firearm was pointed at him and other deputies while Domine was walking toward them. He thought it would only take a second for Domine to manipulate his grip on the firearm to a full shooting position. When Domine was approximately 20 feet from LE1 and other deputies, Williams fired one shot from his rifle striking Domine. LE1 assisted with providing medical care to Domine.

Law Enforcement Witness Two (LE2)

LE2 heard a call come out over the radio of a male armed with a firearm inside the church and church members were scared to leave. LE2 arrived on scene with Williams and LE1 and armed himself with his rifle. There were people around the parking lot and LE2 believed Domine was inside the church property. They contacted a church member who appeared to be downplaying the situation and did not seem to be forthcoming with information. LE2 observed Domine in the breezeway area of the church in between two buildings holding a firearm in his hand. One of the people in the parking lot pointed to Domine telling LE2 that Domine was the subject of the radio call. Domine walked toward deputies while holding a firearm in his right hand and a cane in his left hand. There were approximately a dozen other people in the parking lot behind the deputies. LE2 and the other deputies gave Domine numerous verbal commands to drop the firearm. Domine ignored the commands and continued to walk slowly towards them into the parking lot. Domine was holding the firearm by the handle out to his side with his arm extended. LE2 feared Domine would point the firearm at him, other deputies, or church members in the parking lot. LE2 backed up and took cover behind a vehicle and pointed his rifle at Domine. Williams fired his rifle at Domine. Deputies provided medical care immediately after. LE2 secured Domine's firearm.

Statement of Deputy Justin Williams

Williams was dispatched to a 911 call of a male with a firearm pointed to his head at a church. Williams was worried the call would turn violent, so he requested dispatch tell the church members to evacuate. Dispatch advised Williams that the reporting party did not feel that it was safe to evacuate. After receiving the 911 call, Williams immediately requested air support and a

police service canine to respond to the scene. Williams arrived at the church along with LE1 and LE2. They parked in the parking lot and observed church members scattered across the parking lot. Williams armed himself with his department-issued rifle and contacted church members in the parking lot to obtain more information regarding where the male with the firearm was located. One of the church members directed Williams to the area where Domine was last seen. Williams's priority was to make the scene as safe as possible and evacuate the church members so law enforcement could effectively contact Domine. Williams, LE1, and LE2 approached the entrance to the church property from the parking lot to locate Domine, control the scene, and help church members evacuate.

A civilian on scene pointed out Domine to Williams. Williams observed Domine near a building on the church property holding a cane in one hand and the firearm in the other hand. Domine began walking toward the deputies in the parking lot. Williams and other deputies gave Domine verbal commands to drop the firearm. Church members in the parking lot and CW3 were yelling at Domine, telling him to drop the firearm. Domine continued walking toward deputies, ignoring their commands. CW3 was yelling at Domine in English, so Williams assumed Domine understood the commands they were giving him. Domine was holding the firearm in his right hand by the grip with his arm extended out to the side and the firearm pointed down. Domine was walking slowly.

Williams continued to give Domine verbal commands, telling him to drop the firearm. At one point, Williams told Domine he did not want to shoot Domine. Domine responded by telling Williams to shoot. Williams estimated Domine walked approximately 100 to 120 feet toward him and the other deputies while holding the firearm as they were giving him commands to drop it. Williams was in fear for his own life, the lives of the other deputies, and the lives of the civilians in the parking lot. He feared that, at any moment, Domine would begin shooting at other deputies or civilians in the parking lot. He believed it would only take Domine one to two seconds to change his grip on the firearm and point it at people. Williams did not consider any less-lethal options because Domine had a lethal weapon in his possession. Williams fired one shot from his rifle striking Domine. Domine fell to the ground and dropped the firearm. The firearm was not easily accessible to Domine at that point. Williams and other deputies advanced toward Domine, secured the weapon, and provided medical care to Domine.

Investigation

The scene was secured by deputies from the San Diego Sheriff's Department. San Diego Police Department's Homicide Unit processed the scene and investigated the shooting. All detectives' reports, crime scene investigators' reports, photographs, audio recorded witness interviews, body worn camera, and other audio recordings were reviewed. These items were found to corroborate the officers' and witness' statements. The shooting and the events that led to the shooting were captured on both Williams' and LE2's body worn cameras. LE1's body worn camera did not capture the incident because although LE1 pressed the button to activate his camera while en route to the call, he realized after the incident that the camera had not activated. In addition to being captured by two officers' body worn cameras, the events were captured by church surveillance cameras and by a church member using their cellular phone. All patrol vehicles utilized in the incident were clearly marked and all deputies involved were uniformed.

Numerous church members were interviewed either at the scene or later when contacted by detectives. These witnesses collectively provided information corroborating the detailed statements above. The corroborating information provided by these multiple civilians included seeing Domine in the office pointing the firearm at his head, seeing Domine walk out of the church property toward the parking lot and deputies while holding the firearm, and hearing deputies commanding Domine to drop the firearm. Several other church members who detectives attempted to interview were uncooperative and did not want to speak with them.

Williams utilized his department-issued Colt M4 Carbine rifle. The firearm was received and inspected by a crime scene specialist and homicide detectives. When the firearm was turned over, it was received unloaded with the bolt assembly locked to the rear and a thirty-round capacity magazine containing twenty-nine .223 caliber rounds. One spent .223 shell casing was located in the church parking lot area where the shooting took place. The headstamps on the rounds located in Williams' magazine matched the headstamp on the spent shell casing located at the scene. Based on the number of rounds loaded in Williams' magazine and the spent shell casing recovered at the scene, it was determined Williams had fired one round from his rifle. This is supported by body worn camera footage, which shows Williams charging his rifle as he arrived on scene. This action would send the bolt forward removing one round from a fully loaded thirty-round magazine, inserting it into the chamber.

Domine was armed with a Glock Model 17 9mm handgun with a laser sight affixed to the front of the frame. Upon inspection by a crime scene specialist and homicide detectives, the firearm was found to be unloaded with no magazine inserted and no round in the chamber. Two Glock magazines were located on Domine when he was taken into custody. One had nine 9mm rounds loaded into the magazine and the other had ten 9mm round loaded into the magazine. Domine was also found to be in possession of a folding pocketknife. After another search of Domine at the hospital, he was found to be in possession of an additional Glock magazine loaded with nine 9mm rounds and a loose 9mm round. In total, Domine was in possession of three loaded magazines containing twenty-eight 9mm rounds and one loose 9mm round for a total of twenty-nine 9mm rounds.

The area of the shooting and state of the scene at 1418 Calle Jules was documented by homicide detectives and crime scene specialists. The church buildings are in a dedicated parking lot. The offices and sanctuary are separated by a breezeway with entries and exits to the east and west. Calle Jules is a main thoroughfare that borders the church parking lot to the east and runs north and south through residential neighborhoods. The church property sits directly in the center of residential neighborhoods with mobile homes, single family homes, and apartments in all directions. The parking lot is separated from Calle Jules by a black iron fence, which would not provide sufficient cover from or stop any rounds that could have been fired in that direction from the parking lot. When Domine exited the church property into the parking lot holding the firearm, he was facing east directly toward Calle Jules.

Church surveillance camera footage captured the area where the breezeway exits into the parking lot and a portion of Calle Jules. The footage does not contain audio. At least ten people and

church members can be seen standing in different areas of the parking lot. Vehicles are parked throughout the parking lot and along the curb lines of Calle Jules. The footage shows deputies arrive on scene in marked patrol vehicles with overhead lights activated. Williams, LE1, and LE2 contact church members in the parking lot and approach the breezeway to contact Domine. Williams, LE1, and LE2 point their firearms down the breezeway and Williams can be seen verbally communicating with Domine. Williams can also be seen holding his hand out above the ground opening and closing it in what appears to be an attempt to signal Domine to drop the firearm. Williams, LE1, and LE2 begin backing up into the parking lot and spreading out as Domine exits the breezeway and comes into camera view entering the parking lot. Church members are still scattered across the parking lot. Domine continues to walk toward deputies while holding the firearm in his right hand by the end of the grip between his fingertips with his arm extended out to the side. The firearm is dangling from Domine's fingers upside down with the barrel pointed at the ground and slightly toward Domine's feet. Domine walks into the parking lot toward deputies and church members while holding the firearm and Williams fires his rifle at Domine. Deputies immediately take Domine into custody and provide medical care.

Cell phone video footage was taken by a church member from inside the sanctuary. In the footage, Domine can be seen walking down the breezeway toward deputies and church members in the parking lot until the point he is shot. While this footage provides a different vantage point, it captures much of the chain of events captured by the church surveillance footage, including Domine holding the firearm. In the cell phone video footage, deputies and other people can be heard yelling at Domine to drop the firearm. A church member in the sanctuary can be heard saying that deputies will shoot Domine if he does not drop the firearm and to stay out of the way. Domine can also be heard telling deputies to shoot as he enters the parking lot.

San Diego Police submitted a criminal case to the District Attorney's Office against Domine for a violation of Penal Code section 69. The District Attorney's Office Crimes Against Police Officers Unit declined to file criminal charges against Domine.

Body Worn Camera

Williams' body worn camera was activated during the incident. The footage shows Williams arrive on scene. Williams removes his rifle from his patrol vehicle and chambers a round. Williams groups together with LE1 and LE2 and contacts church members near the front of the church. Church members direct Williams to the breezeway. Domine and CW3 can be seen standing near the office building. Williams orders CW3 to walk toward him and he complies. Williams gives Domine numerous verbal commands to drop the firearm. Other deputies and church members can be heard yelling at Domine to drop the firearm. Domine begins walking toward Williams and the parking lot without being ordered to do so as deputies continuously give him commands to drop the firearm. Domine continues to walk toward Williams, other deputies, and church members in the parking lot while holding the firearm in his right hand with his arm extended outward. Domine's fingers and thumb appear to be pinching the end of the grip. As Domine enters the parking lot, Williams tells Domine to drop the gun and states he did not want to shoot Domine. Domine looks at Williams and tells him twice to shoot. Domine continues to walk into the parking lot and Williams fires one round from his rifle, striking

Domine. Deputies are seen providing medical care while placing him in custody. Domine asks them, "Why not in the head?"

LE1's body worn camera was only activated after the shooting and captured deputies providing medical care to Domine.

LE2's body worn camera was activated during the incident. The footage shows LE2's arrival and initial contact with church members. While the audio feature of the camera recorded the multiple verbal commands given by deputies and the pleas made by church members asking Domine to drop the firearm, the camera view of the shooting is largely obstructed by LE2's arms holding his rifle and by the vehicles behind which LE2 took cover. Church members can be seen in the footage scattered throughout the parking lot.

Legal Standard

Penal Code section 835a(c) sets forth the standard to evaluate a peace officer's use of deadly force and the circumstances upon which an officer may use such force. The law provides, in part, that "a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary...[t]o defend against an imminent threat of death or serious bodily injury to the officer or to another person."

"'Deadly force' means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm." Penal Code section 835a(e)(1).

"A threat of death or serious bodily injury is 'imminent' when based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person." Penal Code section 835a(e)(2).

"An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed." Penal Code section 835a(e)(2).

"Totality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." Penal Code section 835a(e)(3).

"In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques, if reasonably safe and feasible to an objectively reasonable officer." Penal Code section 835a(a)(2).

"[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or

perceived by the officer at the time, rather than with the benefit of hindsight. The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” Penal Code section 835a(4).

Conclusion

San Diego Sheriff’s deputies responded to a radio call of a man actively armed with a firearm at a church where civilians were on the premises. Deputies were aware church members did not want to evacuate out of fear of being shot. While en route to the scene, Williams requested that air support and a police canine respond. Upon arrival, Williams quickly contacted church members to obtain information and locate Domine. Because deputies knew Domine was armed with a firearm, they did not believe the less-lethal force options were appropriate or safe.

Williams, LE1, and LE2 observed Domine in the breezeway of the church property holding the firearm. They made verbal contact with him from a position where the parking lot and church property meet, establishing a barrier between Domine and church members behind them in the parking lot. Deputies gave Domine numerous clear verbal commands to drop the firearm. Instead of dropping the firearm, Domine walked toward the deputies while holding the firearm in his hand. Williams gave Domine numerous verbal commands to drop the firearm as Domine neared him and the civilians in the parking lot behind him. Williams pleaded with Domine, telling him that he did not want to shoot him. Domine looked at Williams and twice yelled “shoot.” Williams was in fear for his life, the lives of other deputies, and the lives of the civilians on site. He believed Domine could easily manipulate the firearm to shoot at them. With this reasonable fear in mind, Williams fired his firearm, striking Domine and causing non-life-threatening injuries.

Based on the totality of the circumstances, Williams reasonably believed that Domine posed an imminent threat of death or serious bodily injury. Further, Williams was reasonable in his belief that the application of deadly force was necessary to defend against the imminent threat of death or serious bodily injury posed by Domine. As a result, Williams bears no state criminal liability for his actions. A copy of this letter, along with the materials submitted for our review will be retained in our files.

Sincerely,



SUMMER STEPHAN
District Attorney

cc: Captain Christopher Lawrence, San Diego Sherriff’s Department
Captain Richard Freedman, San Diego Police Department