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June 11, 2024

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

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

Re: Fatal Shooting of Benjamin Pickens on August 2, 2023, by Officer Addam Ansari; San Diego Sheriff's Department Case No. 23132431; DA Special Operations Case No. 23-066PS; Deputy District Attorney assigned: Fred Washington

Dear Chief Wahl and Sheriff Martinez:

We have reviewed the reports and other materials compiled by the San Diego Sheriff's Department's Homicide Division concerning the circumstances leading to the discharging of a firearm at Benjamin Pickens by Officer Addam Ansari on August 2, 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 October 28, 2023. The Medical Examiner's report was received by the District Attorney's Office on May 24, 2024.

Summary

On August 2, 2023, at approximately 1:23 a.m., San Diego Police Department (SDPD) communications center received a 911 call from Civilian Witness One (CW1) reporting numerous shots being fired at his vehicle by occupants of another vehicle. The vehicle fled the scene and officers located it a short time later parked in a nearby apartment complex. Upon locating the vehicle, officers made contact with the driver and sole occupant, Benjamin Pickens. Officers observed a firearm inside the vehicle and attempted to detain Pickens. Pickens fled in the vehicle and crashed a short distance away. Pickens fled the scene of the crash on foot and was quickly located by officers as he was walking near a college campus. Officers observed Pickens in possession of a firearm and became involved in a standoff with him. For approximately 20 minutes, officers attempted to deescalate the situation by giving Pickens continuous verbal commands to drop the firearm and turn himself in. Pickens refused to comply with commands and continuously manipulated the firearm in his hand. Officers developed a plan to use less than lethal force options and a police canine to take Pickens into custody if Pickens approached them or attempted to walk away with the firearm.

Pickens was still holding the firearm when he began walking away from officers in a direction where the officers would not be able to clearly observe him and Pickens would have access to the campus. Officers attempted to utilize less than lethal impact munitions but were unsuccessful due to a system malfunction and because of Pickens' distance from them. A police canine was then deployed. As the canine approached Pickens, Pickens turned and pointed the firearm in the direction of officers and the canine. Officer Ansari fired his firearm at Pickens, striking him, and Pickens fell to the ground. As Pickens fell to the ground, he fired his firearm, striking the canine. Pickens' firearm was later recovered. It contained no serial number and was determined to be a ghost gun.

Officers provided medical aid to Pickens on scene. He was transported to the hospital where he was pronounced dead. After an autopsy, the cause of death was determined to be a gunshot wound and the manner of death was classified as homicide. Toxicological testing of Pickens' blood revealed the presence of methamphetamine at a level of 0.05 mg/L, alcohol at a level of 0.193 % w/v, benzoylecgonine (a cocaine metabolite) at a level of 0.87 mg/L, cocaine at a level of 0.04 mg/L cocaethylene (A cocaine metabolite) at a level of 0.07 mg/L and gabapentin (a prescription anti-seizure medication) at a level of 4.6 mg/L.

The police canine subsequently died from the injuries it sustained when Pickens shot it.

Persons Involved

At the time of this incident, Pickens was a 33-year-old resident of San Diego. Ansari is an officer employed by the San Diego Police Department and, at the time of this incident, had been an officer for 12 years. He is a member of the SWAT (Special Weapons and Tactics) Team and is qualified as a sniper.

Civilian Witness One (CW1)

CW1 was driving in the area of Mesa College Drive and Ashford Street when he attempted to pass a white Tesla on its left as the Tesla moved to the right lane and began turning off of Mesa College Drive. As CW1 was attempting to pass the Tesla, it suddenly swerved back in front of him, driving into the middle of the roadway. The Tesla slowed down in front of CW1's vehicle and then made a right turn onto Armstrong Street. The vehicle immediately pulled to the curb and stopped as CW1 drove around it. As CW1 passed the vehicle, he heard what he believed to be a gunshot. CW1 accelerated away and drove to his residence. The white Tesla followed him to his residence and drove around CW1's vehicle, coming to a stop in front of CW1's vehicle. CW1 accelerated to drive around the passenger side of the Tesla to get away. As CW1 was approaching the Tesla, a male stepped out of its passenger side door with a firearm in his hand. As CW1 sped past the vehicle, he heard multiple gunshots. CW1 drove out of the area and called 911 and provided the license plate of the vehicle to dispatch.

Law Enforcement Officer One (LE1)

LE1 and his partner were together in a marked patrol vehicle when they heard a radio call of a shooting. As they were responding to the scene, they heard that a suspect driving a white Tesla had been stopped by officers, was not cooperative, and had fled in the Tesla. LE1 learned the Tesla had crashed on Mesa College Drive, and he and his partner responded to the scene of the

crash. Other officers were already on scene. LE1, along with other officers, approached the vehicle and confirmed it was empty. They devised a plan to set up a perimeter of the area. A short time later, LE1 and his partner observed a male in a bush on a hill above the sidewalk on Mesa College Circle. The male matched the description given over the radio and was later determined to be Pickens. LE1 and his partner were approximately 70 yards away from Pickens. LE1 stopped the patrol vehicle and illuminated Pickens using the patrol vehicle spotlight. LE1 and his partner pointed their firearms at Pickens and gave him verbal commands to walk down the hill to the curb, to put his hands up, and to drop anything he had in his hands. Pickens walked down to the curb, but did not drop the objects he had in his hands. Pickens was acting erratically, moving around and not complying with commands. LE1's partner broadcast over the radio that Pickens was in possession of a firearm. Additional officers arrived on scene to assist. LE1 observed Pickens manipulating a brown colored handgun and waving it around. LE1 and his partner continued to give Pickens verbal commands, but Pickens did not comply.

Assisting officers utilized a patrol vehicle's public address system to give Pickens additional commands to drop the gun, but he continued to not comply. Pickens continued to manipulate the firearm and pointed it in the direction of officers at least once while waving it around. LE1 heard Ansari providing updates about Pickens still holding the firearm, which LE1 was also able to see using his rifle scope. Canine officers established a plan to take Pickens into custody. The plan included using less than lethal impact munitions and a canine deployment if Pickens began to walk away or approach officers. Shortly after the plan was devised, Pickens began walking away and officers gave the order to fire less than lethal impact munitions at him. LE1 believed the impact weapons malfunctioned. LE2 then deployed his canine. As the canine was approaching Pickens, LE1 observed Pickens make a drawing motion toward officers and believed the gun was in Pickens' hand. LE1 heard a gunshot come from his left and saw Pickens fall to the ground. The canine contacted Pickens and LE1 heard one more gunshot that seemed to come from Pickens. Officers approached Pickens and LE1 could see the canine had been hit. Another canine was deployed. That canine dragged Pickens away from the sidewalk. Officers could observe the firearm laying on the ground. LE1 and other officers provided medical care to Pickens until emergency medical services arrived.

Law Enforcement Witness Two (LE2)

LE2 is a canine handler and was dispatched to assist on a radio call of someone being shot at. While assisting on the call, LE2 heard over the radio that officers located the suspect and drove to their location. Upon arriving on scene LE2 observed officers holding Pickens at gunpoint. Officers were giving Pickens verbal commands, but he was acting erratically and not complying. LE2 gave Pickens numerous verbal canine warnings, telling him he would be bit if he did not drop the firearm and lie on the ground. LE2 could see Pickens holding a firearm in his right hand and tucking it under his left armpit as he manipulated a cellular phone. Officers gave Pickens numerous commands to drop the firearm. Pickens was yelling back to officers, and they requested Pickens call 911 to communicate with a dispatcher.

Assisting officers were armed with less than lethal impact munitions including a 40mm launcher and a bean bag shotgun. LE2 and other officers feared Pickens would pose a danger to the public and other officers if he was able to flee. If Pickens began moving away, they planned to fire less

than lethal impact munitions at him. If that was unsuccessful, LE2 planned on deploying his canine. Shortly after, Pickens began to walk away. Officers attempted to fire the 40mm launcher at Pickens and LE2 heard them announce the 40mm launcher malfunctioned. Pickens continued to walk away and LE2 deployed his canine while giving him a bite command. As the canine got close to Pickens, LE2 observed Pickens turn back toward officers and he heard a gunshot. LE2 was not sure where the shot came from. He heard the canine yelp and bark, then immediately heard a second gunshot. LE2 picked up the canine from the street and transported him to a veterinarian.

Law Enforcement Witness Three (LE3)

Upon arriving on scene, LE3 observed officers illuminating Pickens with vehicle spotlights and pointing their firearms at him. Officers were giving Pickens verbal commands to drop the firearm and lie on the ground. LE3 deployed a less than lethal bean bag shotgun. Officers continued to give Pickens commands to drop the firearm and lie on the ground, but he did not comply. Pickens repeatedly reached his right hand to his left armpit area but LE3 could not see what he was reaching for. Ansari arrived and laid down in a prone position in the street with his rifle. Ansari viewed Pickens through his rifle scope and provided updates to other officers on Pickens' actions, saying he was holding a firearm. Pickens began walking away and officers began calling for the 40mm launcher and bean bag shotgun. Ansari told other officers not to stand in front of him. LE3 pointed the bean bag shotgun at Pickens but did not fire because he didn't believe he would have an effective shot being more than 25 to 30 yards away from Pickens. The canine was deployed and LE3 observed Pickens turn toward officers. LE3 heard a rifle shot and saw Pickens fall as the canine contacted him. LE3 heard a second shot and the canine began whimpering.

Statement of Officer Ansari

Ansari heard a radio call of a shooting at a dwelling and the suspect fleeing from officers. He heard the suspect was located by officers and in possession of a firearm. Ansari responded to the scene. Based on the radio updates Ansari was receiving, he was aware upon arrival that Pickens was not compliant with officers' commands. Ansari was fearful for his safety, the safety of other officers, and for overall public safety. Ansari initially armed himself with his AR15 rifle until he realized Pickens was 50 to 75 feet away from officers. He then returned that weapon to his vehicle and elected his AR10 rifle, which is equipped with a scope. He was concerned that he and other officers being in a large group made them an easy target for Pickens to shoot at. He felt he could utilize the scope on his rifle to provide updates to supervisors and other officers on Pickens' actions. Ansari loaded a round into the chamber of his rifle and laid down in a prone position in the street. Through the rifle's scope, he was able to see Pickens repeatedly manipulate a tan firearm with his right hand moving it from his right side to his left armpit. Pickens was sweating profusely and appeared upset. Pickens had a phone in his hand and appeared to be talking on it.

Officers gave repeated commands, but Pickens failed to comply and began walking away. Ansari heard officers announce the use of less than lethal impact munitions and a canine was deployed. Still looking through his scope, Ansari observed Pickens turn toward officers and point the firearm directly at them. He feared he and other officers would be shot. Ansari fired his

rifle once at Pickens and observed Pickens fall as the canine was still approaching him. Other officers began walking in front of Ansari and blocked his view. He did not see the canine get shot and was not aware of another shot until he later reviewed his body worn camera footage.

Investigation

The scene was secured, photographed, and investigated by the San Diego Sheriff's Department's Homicide Unit. All detectives' reports, crime scene investigators' reports, audio-recorded witness interviews, body worn camera and other audio recordings were reviewed. These items were found to provide evidence corroborating the officers' statements. The shooting and the events that led to it were captured on the officers' body worn cameras, residential security cameras, and vehicle dashboard cameras. Additionally, ABLE air unit video footage captured the general area of the standoff between Pickens and the officers. The footage did not capture Pickens holding the firearm or the shooting due to weather obstructing the view. All officers and deputies involved were wearing clearly identifiable police uniforms. All vehicles utilized in the incident were marked patrol vehicles.

Other than the officers referenced above, 19 other law enforcement officers from San Diego Police Department and San Diego City College Police were on scene during the incident. The officers participated in different roles during the standoff and shooting. Overall, the information and statements they provided corroborated the chain of events leading to the shooting of Pickens and the officer statements detailed above. Multiple officers gave Pickens verbal commands to drop the gun and get on the ground, and multiple officers heard others giving those commands. Many of these officers' statements corroborated the development of the plan put in place to take Pickens into custody utilizing less than lethal impact munitions and a canine. Multiple officers observed Pickens holding the firearm and turn towards their direction. Due to the distance and the positioning of the officers, some of the officers on scene only heard the shots and were unable to determine whether Pickens or Ansari fired first. Some officers believed Pickens may have fired first, which is not supported by the above statements or body worn camera footage.

Ansari utilized his department issued JP Enterprises LRP-07 (AR10) .308 caliber rifle. The rifle contained an inserted 10-round capacity magazine and had a scope mounted on it. Upon deploying his rifle, Ansari chambered a round, leaving nine rounds in the magazine and one in the chamber. After the shooting, Ansari's rifle was inspected by homicide detectives and a field evidence technician. The bolt of the rifle was forward, and the magazine was inserted. The rifle contained one unexpended .308 round in the chamber and eight .308 rounds in the magazine for a total of nine rounds. One expended rifle casing was located on the ground in the area where Ansari was lying when he fired his rifle. The headstamp on the casing matched the headstamps on the rounds located in Ansari's rifle. Based on the number of rounds left in Ansari's rifle and the expended casing recovered at the scene, Ansari fired one round from his rifle.

Pickens was armed with a brown Heyward Streams 9mm firearm, which contained no serial number. The firearm was recovered from the sidewalk area near Pickens' body. Homicide detectives and a field evidence technician collected and inspected the firearm. The firearm contained one 9mm unexpended round in the chamber and an inserted six-round capacity magazine containing four 9mm rounds for a total of five rounds. One expended 9mm casing was

located on the edge of the sidewalk and street near the firearm. Based on the number of rounds remaining in the firearm and the expended casing recovered at the scene, Pickens fired one round from his firearm. A folding pocketknife, a firearm light, and a sealed miniature bottle of whiskey were all located on the ground in the area near Pickens' body.

Homicide detectives and a field evidence technician processed and searched the Tesla driven by Pickens. During the search of the vehicle, they located five additional unexpended 9mm rounds, small amounts of a white crystal-like substance consistent with narcotics, nine empty miniature bottles of whiskey, and three sealed miniature bottles of whiskey. The original shooting scene at Mesa College Drive and Armstrong Street was searched and processed. One expended 9mm shell casing was located on the sidewalk area. Bullet strikes were located in a nearby apartment, entering through a window and striking the interior wall of a bedroom. The shooting scene near CW1's residence was searched and processed. Six expended 9mm casings were located in the street. The headstamps on two of the casings matched the headstamps on two of the rounds located in the magazine of Pickens' firearm. Apparent bullet strikes were located in CW1's vehicle, another vehicle parked on the street, and a nearby residence.

The shooting on CW1's street was captured on a vehicle dashboard camera. The video shows a person step out of the passenger door of the Tesla and stand in the street. The driver of the Tesla opens the driver's door and leans out while remaining seated. Both passenger and driver are seen shooting at CW1. Through investigation, the passenger shooter was later identified by San Diego Police as Xavier LaCosta. On August 15, 2023, law enforcement attempted to arrest LaCosta. However, LaCosta was in possession of a handgun and a separate officer-involved shooting incident took place. LaCosta died from the injuries he sustained during that incident.

Body Worn Camera

Ansari's body worn camera footage shows him arrive on scene and deploy his AR15 rifle. Ansari contacts a supervisor and other officers who are already holding Pickens at gunpoint. Pickens can be seen in the distance on the sidewalk with a patrol vehicle spotlight illuminating him. Numerous officers can be seen, and verbal announcements over the PA system commanding Pickens to put the firearm down and step away from it can be heard. Ansari recommends to a supervisor that Ansari should retrieve his long rifle with a scope and the supervisor agrees. Officers can be heard discussing a plan to impact Pickens with less than lethal munitions if he moves from his position. Ansari returns with his rifle and takes a prone position on the ground pointing his rifle at Pickens. His body worn camera view is obstructed due to his prone position. However, the audio captures Ansari providing updates to other officers that Pickens has a firearm in his hand and is moving it back and forth from his right hand and placing it under his left arm. Continuous verbal commands can be heard from officers negotiating with Pickens and telling him to put the firearm down and talk to them. Ansari continues to provide updates to officers, describing Pickens manipulating the firearm. Officers issue verbal commands telling Pickens to call 911 so he can communicate with them. Ansari updates officers that Pickens is beginning to walk away, and officers can be heard giving the command to impact Pickens with less than lethal munitions. Ansari tells other officers to not move in front of him and the canine is deployed. The canine can be heard barking and a distinct loud gunshot consistent with a rifle can be heard close in proximity to Ansari's BWC. Ansari announces,

“Shots fired.” Moments later another gunshot can be heard further away, and the canine starts yelping. Officers take Pickens into custody and provide medical aid.

Due to the number of officers on scene, there were views of body worn camera footage from different positions. Because of the distance between officers and Pickens, and because of many of the officers’ positions behind the cover of patrol vehicles, there is no clear video footage of Pickens manipulating the firearm. Ansari’s description of Pickens’ actions while he was viewing Pickens through the rifle scope corroborate the statements later given by other officers. Another officer’s camera footage shows the canine being deployed and running toward Pickens. As the canine is still approaching, a gunshot consistent with a rifle is heard near the officer. The canine is seen still approaching and a second more distant gunshot is heard as the canine comes close to Pickens. The canine noticeably jumps to the side, falling suddenly and begins yelping.

Autopsy

An autopsy was performed on August 4, 2023. The Deputy Medical Examiner determined that Pickens suffered one gunshot wound to the chest. The bullet entered the upper left side of the chest travelling front to back and perforated the heart and left lung before exiting the back. The cause of death was classified as a gunshot wound and the manner of death was classified as homicide.

Toxicological testing of Pickens’ blood revealed the presence of methamphetamine at a level of 0.05 mg/L, alcohol at a level of 0.193 % w/v, benzoylecgonine (a cocaine metabolite) at a level of 0.87 mg/L, cocaine at a level of 0.04 mg/L cocaethylene (a cocaine metabolite) at a level of 0.07 mg/L and gabapentin (a prescription anti-seizure medication) at a level of 4.6 mg/L.

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

Pickens and his companion fired multiple gunshots at another person, striking an occupied vehicle and inhabited dwellings. Officers located Pickens and observed him in possession of a firearm. Pickens then fled in the vehicle and crashed near a college campus. Officers located Pickens near the campus in possession of the firearm. Officers made numerous verbal commands to Pickens. A patrol vehicle PA system was utilized to make sure Pickens could hear the officers. Clear and descriptive commands were given as to what they wanted him to do and the consequences of not complying. Officers established a plan to take Pickens into custody utilizing less than lethal force options including less than lethal impact munitions and a canine to stop him from approaching the campus any further, and endangering officers’ or the public’s safety. Pickens failed to comply with verbal commands and began walking away from officers with the firearm. As the canine was deployed, Pickens turned toward officers, pointing the firearm in their direction. Officer Ansari feared for his life and the lives of other officers. He fired his weapon at Pickens, striking him. As Pickens fell to the ground, Pickens fired his firearm, striking and killing the canine. Based on the totality of the circumstances, Ansari reasonably believed that deadly force was necessary to defend against the imminent threat of death or serious bodily injury posed by Pickens. As a result, Ansari bears no state 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 Richard Freedman, San Diego Police Department
Captain Christopher Lawrence, San Diego Sheriff’s Department