



State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
MECKLENBURG COUNTY

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August 20, 2012

Chief Rodney D. Monroe
Charlotte Mecklenburg Police Department
601 East Trade Street, 3rd floor
Charlotte, NC 28202

Re: Michael Laney Death Investigation

Dear Chief Monroe,

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the death of Michael Laney under complaint number 2012-0702-2324-01. The purpose of this review was to examine whether Officer A.J. Holzhauer's conduct on July 2, 2012 was unlawful. Based on the information presented to the District Attorney's Office, we agree there is no evidence that Officer Holzhauer acted unlawfully. This review focuses only on North Carolina law regarding the use of deadly force and specifically does not address issues relating to CMPD directives or policies.

Homicide Prosecution Team Supervisor Bill Stetzer was present at the crime scene, and personally observed the interviews of both police officers involved in the struggle as well as the interview of the suspect's girlfriend who witnessed parts of the incident. In addition, members of the Homicide Prosecution Team reviewed the results of the investigation conducted by the Charlotte Mecklenburg Police Department.

The facts, as ascertained from the investigation, are as follows: On July 2, 2012, officers were briefed regarding a robbery that occurred on June 25, 2012. The briefing included information that an unknown black male attempted to rob a man at 505 Beatties Ford Road and when the victim failed to produce money as demanded, the assailant shot the victim in the back with a .410 gauge shotgun. (After the suspect's death, the victim of the June 25th robbery positively identified Michael Laney as the man who shot and attempted to rob him.) The briefing on July 2, 2012, included information from a Robbery Detective asking officers to be on the lookout for the suspect in that robbery. The information given by the Robbery Detective was that the suspect was seen hours earlier in the area. The suspect was last seen on French Street near Five Points Park.

Approximately one hour after the briefing, Officer Shields observed who he believed to be the suspect riding a red moped in the vicinity of Five Points Park. Officer Shields activated his blue lights and siren and attempted to stop the moped operator. The driver of the moped refused to stop, running multiple stop signs and red lights. After a brief pursuit, the suspect pulled the moped into the yard at 2317 Crestview Drive and jumped off the moped. (This address is 0.3 miles from where the previous shooting occurred.) Officer Shields ran from his car and tackled the suspect. After a brief struggle the suspect got away from Officer Shields and ran towards the house. Officer Holzhauser was assisting Officer Shields in the chase and arrived at the same time as Officer Shields and tried to assist with the arrest.

On Officer Holzhauser's portable microphone, the officers are heard trying to subdue the suspect. Officer Shields was struggling with the suspect and was yelling to Officer Holzhauser "he's got something in his waistband." Shields yelled to Holzhauser at least three times "he's got a gun." Officer Shields informed the investigating detectives that he saw a gun and he could feel the gun in the suspect's hand. Officer Shields told the investigating detectives he was in fear for his and Holzhauser's lives and believed deadly force was necessary.

Officer Holzhauser heard his partner say at least three times that the suspect had a gun. After it was clear that neither he nor Shields were able to control the suspect's hands, Officer Holzhauser heard his partner yell for him to shoot the suspect. It was at that point that Officer Holzhauser fired one shot from his duty weapon killing the suspect. The total time elapsed from the moment Officer Shields first had physical contact with the suspect until the fatal shot was fired was a period of twenty-six seconds.

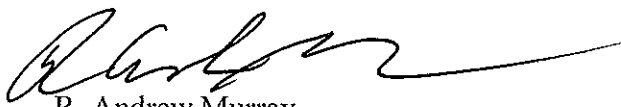
Officer Shields and Officer Holzhauser were separated after the shooting and interviewed separately at the police department. Their recorded interviews were consistent with each other and consistent with what could be heard on the audio tape. The interviews were also consistent with the statement of Sara Ramey, the suspect's girlfriend who heard the officers yelling to the suspect to stop resisting and heard Officer Shields yell "he's pulling something out of his pocket." Specifically, Ramey stated she heard the officers tell the suspect to "get down" and she stated the suspect was fighting and resisting the officer. Then she heard the single gunshot.

The physical evidence at the scene is also consistent with the statements of the two officers. The suspect was in fact armed with a loaded (and stolen) .380 caliber Keltec handgun during the struggle.

The consistent, believable evidence is that the suspect aggressively resisted apprehension and reached for a loaded handgun while fighting the officers. Therefore, the use of deadly force was justified under North Carolina law. Consequently, this Office will not pursue criminal charges against either officer involved in this matter.

If you have any questions, please contact me directly.

Sincerely,



R. Andrew Murray

District Attorney