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October 14, 2016

Sent Via Email Delivery

Mr. Larry Jegley  
Prosecuting Attorney  
Sixth Judicial District, State of Arkansas  
224 S. Spring Street  
Little Rock, Arkansas 72201

**Re: LRPD Criminal File #2010-135468  
LRPD Officer Donna Leshner**

Dear Mr. Jegley:

I write this letter on behalf of my client, Spencer Ellison. On January 25, 2016, under cover of letter, Spencer sent you certain materials, which clearly demonstrate that Donna Leshner was not truthful regarding key aspects of her shooting of his father, Eugene Ellison in December 2010. In short, the trajectory of bullets in Mr. Ellison's body totally refutes Leshner's account of the shooting. You will recall that my client's letter to you urged your office to take a second look at pursuing criminal charges against Leshner for the shooting. To my knowledge, your office never responded to Spencer. I attach his letter and accompanying materials again for your review.

One of Spencer's chief concerns was that the criminal investigation would be biased because the homicide division—which conducted the investigation—was led by Sgt. James Leshner, who is Leshner's husband. Naturally, the Ellison family feared this marital relationship (along with the other relationships) would create a conflict in the investigation, making impartiality even more difficult to secure. Quite simply, the homicide division was responsible for building a criminal case against their sergeant's wife. Stuart Thomas has stated publicly that the Ellison shooting "underwent an intense departmental review."

I have recently taken depositions in another matter, *Perkins v. Hastings, et al.*, and questioned all levels of LRPD decision-makers about their acts and omissions in the Ellison shooting investigation. Indeed, these high-ranking and influential LRPD officials have made some rather incredible admissions about significant shortcomings which plagued the investigation, and their sworn testimony supports the Ellison family's request for a second criminal investigation. Along with Leshner's own sworn videotaped admissions, the testimony provides a basis for pursuing criminal charges against her.



Assistant Chief Wayne Bewley–Deadly Force Review Board

Assistant Chief Wayne Bewley was the chairman of the Deadly Force Review Board (DFRB) assigned to analyze the facts of each shooting, and to evaluate the adequacy and thoroughness of the underlying investigation. He was questioned regarding the bullet trajectory reflected in Mr. Ellison's autopsy report, as well as the materials previously sent to your office. Chief Bewley had absolutely no answer for how the bullets wound up in Mr. Ellison's T-10 vertebra and lower back, in light of Leshler's account which has Mr. Ellison standing. He acknowledges that no one at the LRPD asked her this central question. He admits that Leshler's story and the physical evidence are "inconsistent."

Chief Bewley could not explain why Leshler's murky story outweighed the physical evidence in the Ellison shooting investigation, but he stated that he may have lacked the training to fully understand the autopsy report, a problem noted by prior boards. He now agrees that the shooting of Mr. Ellison could have been a crime. Considering this revelation, he feels the matter should be investigated by your office a second time. It was not easy for Chief Bewley to admit these things, but he showed integrity and honesty in doing so.

Stuart Thomas-Former Chief of Police

Stuart Thomas was chief of police at the time of the Ellison shooting. It was Chief Thomas who decided to perform an in-house criminal investigation, despite the unique circumstances. On May 6, 2011, you advised Chief Thomas that your office found Leshler justified in the shooting of Mr. Ellison shooting in his home, and that no criminal charges would be pursued. In October 2011, in response to a civil rights lawsuit, Chief Thomas defended Leshler's exoneration in boastful fashion, assuring the public that the Ellison shooting had undergone "intense departmental review" by the LRPD.

Yet, while under oath, despite his prior proclamations to the media, Chief Thomas could not explain the sharp downward trajectory of the bullets through Mr. Ellison's body, given Leshler's official story. Moreover, he does not know why he did not inquire as to this material inconsistency during the investigation, and further noted that no one at the LRPD did so either. Under oath, he concluded that, based on the physical evidence, Mr. Ellison was not standing when Leshler shot him. When asked if the LRPD dropped the ball during the investigation, Chief Thomas responded "I don't know." This equivocation stands in sharp contrast to his prior assertions to the public. It also makes clear the need for another look by your office.

Sgt. James Stephens–Internal Affairs Division

Sgt. James Stephens, an IA investigator, was also a member of the DFRB for the Ellison shooting. At his deposition, he acknowledged Leshler's account that Mr. Ellison was standing upright and swinging his walking cane like a baseball bat, as demonstrated at her deposition. However, like Chief Bewley and Chief Thomas, Sgt. Stephens could not explain how the bullets lodged in Mr. Ellison's lower back, given Leshler's account. Despite his ignorance on such a crucial matter, he never asked Leshler about this material inconsistency, one which goes to the very lawfulness of her actions in taking a human life.



Capt. Heath Helton–Training Division

Capt. Heath Helton, who heads the LRPD Training Division, was also a member of the DFRB for the shooting. He acknowledged under oath that when Leshar shot Mr. Ellison from outside his apartment while he was still inside, she violated General Order 303, which reads in part: “[o]fficers will not fire into a building or through doors, unless the officer or someone else is drawing fire and the suspect can be identified and is clearly visible.” The logic for this rule is borne out by the fact that when one person is outside a dwelling, and the other person is inside (and not shooting a gun), there can be no objectively reasonable basis to use deadly force against the person inside.

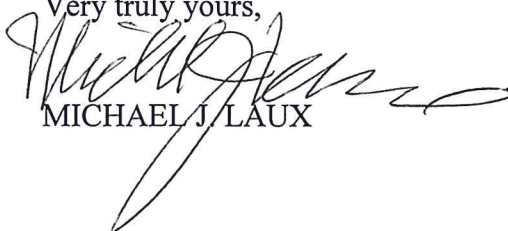
Capt. Helton too acknowledged the contradictory nature of Leshar’s statements and the physical evidence in the matter. He acknowledged that if she was untruthful about what Mr. Ellison was doing when she shot him, it would be significant to any criminal investigation. He also admitted that no one at the LRPD ever asked Leshar to explain the discrepancy during either of the purported “intense” in-house investigations. When asked if information in Mr. Ellison’s autopsy report was properly assessed, Capt. Helton stated “I don’t know.” He also confirmed that in failing to separate Leshar and other officers, homicide supervisors breached policy. This was just one small instance of the compromised nature of the investigation.

Det. Kevin Simpson–Detective Division

Finally, Det. Kevin Simpson, one of Sgt. James Leshar’s subordinates on the homicide division, criminally investigated the Ellison shooting. He has been a friend of Sgt. Leshar for 20 years, and yet he was responsible for building a criminal case against his friend and supervisor’s wife. He admits that the placement of the bullets in Mr. Ellison’s T-10 vertebra and lower back is not consistent with him standing upright, as Leshar states. The information regarding the bullet trajectory was contained in the file at all relevant times. This inconsistency was not addressed by him or anyone in homicide. He admits that it clearly should have been addressed.

I provide this information to you because I understand your office is interested in achieving justice. On behalf of the Ellison family, I respectfully request your office open a criminal investigation of Leshar for the shooting of Mr. Ellison. Should you have any questions, please do not hesitate to contact me at [REDACTED], or via email at [REDACTED]. I thank you very much for your attention to this important matter, and I will surely be in touch with your office.

Very truly yours,

  
MICHAEL J. LAUX

Attachments (via email)