

## If officer is charged in Corey Jones death, what would charge be?

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By Lawrence Mower - Palm Beach Post Staff Writer

### **PALM BEACH GARDENS —**

In April, a South Carolina officer was charged with murder for shooting and killing a man while he was running away.

Last year, another South Carolina officer was charged with assault and battery for shooting a man who was reaching for his driver license.



Nouman Raja is the Palm Beach Gardens police officer who shot and killed Corey Jones.

Since last month, family, friends and observers have been calling for “justice” for Corey Jones, the 31-year-old drummer shot and killed by a Palm Beach Gardens officer.

But if “justice” includes criminal charges against the officer who killed him, justice probably won’t happen, lawyers following the case say.

The simple reason? Jones had a gun, giving Raja a reason to “reasonably” fear for his life, which is standard set by the U.S. Supreme Court.



Bruce R. Bennett

Roy Black

“I just don’t think there’s any case they (prosecutors) can make here, and I don’t think they should try,” said prominent Miami-based defense attorney Roy Black.

And although the FBI was asked to help in investigation, the chance that the feds would bring charges against Raja is next to nothing, they say.

“As far as a federal civil rights criminal prosecution, there’s no way,” said attorney Stuart Kaplan, a former FBI special agent.



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Michael Salnick

Despite public outrage and national attention, it remains rare to charge a police officer for shooting someone in the line of duty. As of late September, 12 officers have been charged with shooting and killing someone this year, according to the Wall Street Journal. In comparison, nearly 1,000 people have killed by police in the U.S. this year, according to The Guardian.

The last time it happened in Palm Beach County was in 1993, and that sheriff’s office deputy was acquitted.

## **Wide latitude for deadly force**

The main reason why officers so rarely face charges is because the law gives them wide latitude to use deadly force. They're supposed to be judged by what a "reasonable" officer would perceive, "rather than with the 20/20 vision of hindsight," the Supreme Court has ruled.

That allows them to make reasonable mistakes, like perceiving a toy gun for a real one.

"A police officer does not have to wait to determine if he or she is going to get shot," said attorney Michael Salnick, who was the last person to represent a police officer charged with a shooting in Palm Beach County.

But Raja, according to police, was confronted with a real gun.

Jones' vehicle was broken down on the off-ramp of Interstate 95 at PGA Boulevard when Raja, who was working a plainclothes surveillance assignment, approached it, according to police. Police said he believed the vehicle was abandoned.

Raja was driving an unmarked surveillance van and got out wearing jeans, a T-shirt and baseball cap. He also didn't have his badge, according to Jones' family, who were briefed by the State Attorney's Office.

Police said Raja was quickly confronted by an armed man. Raja's lawyer, Richard Lubin, declined to comment on the case.

Black believes at that moment, both Raja and Jones could have legally fired their weapon, the latter because he could have argued that he didn't know Raja was an officer.

"I think both parties were acting totally legally when this shooting occurred," he said.

He described the situation as tragically ironic.

"Everybody who is a supporter of Corey Jones said, 'Well, he had his right to have a gun,'" Black said. "Ironically, that tends to prove the police officer's self-defense."

## **Unnecessarily risky?**

But what about Raja's choice to confront Jones at all? Other police have questioned his decision, saying it was unnecessarily risky.

Defense attorney and former prosecutor Ira Karmelin said Raja's approach could raise questions of whether Raja was reckless or negligent in triggering the events that led to Raja's death.

But that could be a weak case, Salnick said, since it could be argued that Raja was doing his job.

"If this officer saw a vehicle that was abandoned, and it was suspicious ... I would certainly argue he was doing his job as a police officer," he said.

In 1993, the state attorney's office used an unusual charge against Palm Beach County Sheriff's Office deputy Vincent Tuzeo, who fired 16 shots at a burglar who was fleeing in a pickup truck, killing him. Tuzeo said he feared the man was about to hit another deputy.

Prosecutors charged him with "unnecessary killing to prevent an unlawful act," a seldom-used form of manslaughter. He was also charged with shooting into a building and culpable negligence, but the judge threw out those charges, saying it was inappropriate to charge Tuzeo with three separate crimes linked to a single act.

Salnick, who represented Tuzeo, said he doesn't believe the "unnecessary killing" charge would fit in Raja's case, since it's unclear what "illegal act" Raja would be trying to prevent.

Kaplan said Jones' gun is key in the case.

"What will save him (Raja) is the fact that Corey Jones has a weapon," Kaplan said.

According to the family, Raja fired two volleys of shots at Jones. First, when Jones was next to his car and second, when Jones was running away.

The second volley has become the focus of detectives' investigation, The Palm Beach Post has learned. The fatal shot was apparently fired while Jones was running, and it entered his side, traveling to his aorta, family lawyers said.

The medical examiner's report will be critical, and it could show whether Jones was facing the officer or running away, lawyers have said.

"If he was shot in the back, it makes it a stronger case to make a manslaughter case," Black said. "But short of that, I don't think they have a case."

### **Federal charges rare**

While Sheriff Ric Bradshaw's decision to ask the FBI to help with the investigation was a surprise move, Kaplan doubted its usefulness to the case, and he and other lawyers doubted it would lead to federal charges.

"It's very troubling because the Bureau should have been called out that night," he said. "You can't bring in the FBI a week or two later to walk out the crime scene. The integrity of the crime scene has not been preserved."

The FBI seldom charges officers for using force. When they do, it's usually for violating the person's civil rights. But that's a difficult case to make, since the FBI has to show the officer intended to violate the person's rights, Kaplan said.

The most memorable example was in the 1991 Rodney King case. Although he was captured on video being beaten with a baton by Los Angeles police more than 50 times, a federal judge found only the last five to seven strikes to be excessive.

Black and Salnick saw the federal intervention as simply a way to soothe public fears of a biased investigation.

“Local authorities many times will call in the FBI because they’re concerned about the public backlash,” Black said. “That’s all it really relates to.”

“If the sheriff’s office looks at it, the FBI looks at it, nobody can say it wasn’t thorough,” Salnick said. “I don’t think anything more of it (than that).”

Karmelin said there are still too many questions about the incident to say whether Raja could or should be charged.

“The real bottom line is, we don’t know all the facts.”