



# MEMORANDUM

SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

**THIEN HO**  
DISTRICT ATTORNEY

**DATE:** February 1, 2023

**TO:** Supervising Deputy District Attorney C. Gonzalez

**FROM:** Criminal Investigators H. Merten #53 and J. Wagstaff #10

**SUBJECT:** Elk Grove Police Department Officer Involved Shooting (EGPD 23-0708)

**NOTIFICATION:**

On February 1, 2023, at approximately 1700 hours, I was notified by CI Wagstaff of an Elk Grove Police Department Officer Involved Shooting that had occurred at Bruceville Road and Big Horn Blvd., in the city of Elk Grove. CI Wagstaff and I responded to that location and arrived at approximately 1730 hours. I notified EGPD dispatch, over the radio, that we were on scene and standing by for further instructions.

**BRIEFING:**

No formal briefing was conducted by Elk Grove Police Department. At approximately 1817 hours, EGPD Detective Mark Bearor called CI Wagstaff and stated that we needed to respond to EGPD headquarters. At approximately 1835 hours, CI Wagstaff and I arrived at the Elk Grove Police Department at 8400 Laguna Palms Way.

EGPD Investigations Sergeant Musa Abedrabbo advised that EGPD Officers assisted in the pursuit of a homicide suspect vehicle that had exited southbound Highway 99 at Calvine Road. Three EGPD Officers fired their weapons, hitting the driver of the suspect vehicle, which resulted in injuries to him. The suspect was transported by ambulance to a nearby hospital and his condition was listed as critical, but stable. The suspect was identified as Devian Elijah Lewis, X-Ref 5355023, with a date of birth of October 7, 2000. Sgt. Abedrabbo advised that the interviews of the involved officers would take place on February 3, 2023.

The shooting officers were identified as EGPD K-9 Officer Jason Miller #157, EGPD K-9 Officer Braden Kelly # 157 and EGPD Officer Chris Rahall #317.

### **WALKTHROUGH:**

At approximately 2110 hours, CI Wagstaff participated in a scene walkthrough which was conducted by EGPD Sgt. Williams. Each of the three involved officers participated in their own individual walk-through. The three involved patrol vehicles were located on Bruceville Road, just north of Big Horn Blvd. and secured with police crime scene tape. The suspect vehicle was positioned in front of Officer Kelly's vehicle and west of Officer Miller and Officer Rahall's vehicles. Detectives advised that Officer Rahall patrol vehicle was moved after the shooting to allow the ambulance access to the scene. CI Wagstaff observed what appeared to be a black Glock firearm, laying on the front passenger seat of the suspect's vehicle. CI Wagstaff observed plastic packaging that had the word Glock written on it in the backseat of the suspect's vehicle. CI Wagstaff observed what appeared to be packaging for a possible knife in the backseat of the suspect's vehicle.

### **SCENE:**

Bruceville Road and Big Horn Blvd., is a major intersection within the city of Elk Grove. Bruceville Road is a north/south roadway. Southbound Bruceville Road has four lanes of traffic, two of which are left turn only lanes. The westside of the roadway contains a marked shoulder, which allows vehicles to turn w/b onto Big Horn Blvd. The suspect lead law enforcement on a high-speed pursuit that started in Fairfield and ended at this intersection. All traffic signals appeared to be functioning and cycling properly. Sunset for February 1, 2023 was at 1728 hours.

On February 3, 2023, EGPD Detective Keith Armstrong advised that 35 shell casings had been recovered from the scene.

### **ROUND COUNT:**

On February 1, 2023, at approximately 1900 hours, a round count was conducted at Elk Grove Headquarters by EGPD Detectives Armstrong and Holly of all three shooting officers service weapons and magazines. EGPD CSI Rivera photographed the firearms, ammunition, and magazines. The round count was conducted in interview room #2 and audio and video recorded.

Officer Miller removed one round from the chamber of his Glock 17, serial number BGYC136. Officer Miller's first magazine contained 16 rounds. Officer Miller's second magazine contained 18 rounds and his third magazine contained 17 rounds. Officer Miller's fourth magazine was left on scene.

Officer Kelly removed one round from the chamber of his Glock 17, serial number BGMM086. Officer Kelly's first magazine contained 18 rounds. Officer Kelly's second and third magazines contained 18 rounds. Officer Kelly's fourth magazine was left on scene.

Officer Rahall removed one round from the chamber of his Glock, serial 8GYC139. Officer Rahall's first magazine contained 8 rounds. Officer Rahall's second magazine contained 18 rounds. Officer Rahall's third magazine contained 17 rounds. Officer Rahall's fourth magazine contained 18 rounds.

### **IN-CAR CAMERA/BODY CAMERA:**

On February 3, 2023, at approximately 0815 hours, CI Wagstaff and I reviewed the in-car camera and body worn camera recordings of EGPD Officers Miller, Kelly, Rahall, and Lorigan. Officer Miller's body worn camera was in standby mode and not physically activated by Officer Miller. EGPD IT was able to recover the video from Officer Miller's body worn camera, but there was no audio. Officer Kelly's body worn camera was on and recorded both audio and video. Officer Rahall's body worn camera was in the off position and did not record. Officer Lorigan's body worn camera was on, and recorded audio and video.

We reviewed in-car camera footage from the three involved patrol vehicles. Officers Rahall and Lorigan were riding in the same patrol vehicle. Their in-car camera was activated prior to when they entered the pursuit. Officer Kelly and Officer Miller's in car cameras were activated prior to when they entered the pursuit.

We reviewed surveillance video from the California Highway Patrol airplane.

### **WITNESS OFFICER STATEMENTS:**

On February 1, 2023, at approximately 2059 hours, Investigator Wagstaff and I observed and monitored the interviews of Sacramento Sheriff's Office Deputy Sheriff Marvin Morales, Sacramento Sheriff's Office Deputy Sheriff Sonny Vasquez and Elk Grove Police Department Officer Jacob Lorigan via remote feed. The interviews took place at the Elk Grove Police Department's Detective Division at 8400 Laguna Palms Way. The interviews were conducted by EGPD Detectives Vanek, Daguman and Coleman. Also present in the interview room was attorney [REDACTED]. The interviews were audio recorded.

### **SSO DEPUTY MORALES STATEMENT:**

SSO Sheriff's Deputy Morales advised that while on patrol, he had received information of a 187 in Rancho Cordova. Deputy Morales stated that the suspect was outstanding and that he heard that Fairfield PD and CHP were chasing the subject. Deputy Morales stated that he waited at Highway 99 and Florin and joined CHP in the pursuit. Deputy Morales advised that as he pulled up to where the suspect vehicle had stopped, he heard a radio broadcast that the suspect vehicle was involved in an accident and shots were fired. Deputy Morales stated that he assisted in handcuffing the suspect and provided medical aid to the suspect.

### **SSO DEPUTY VASQUEZ STATEMENT:**

Sheriff's K-9 Deputy Vasquez advised that around noon, he was attending training when he heard about a 245 that had just occurred in Rancho Cordova. Deputy Vasquez stated that later in his shift, the suspect, who now was wanted for 187 PC, was involved in a pursuit with CHP and Fairfield PD. Deputy Vasquez advised that the suspect vehicle exited s/b Highway 99 at Consumnes River Blvd. Deputy Vasquez was driving n/b of Highway 99, so he exited at Sheldon

Road and drove towards Bruceville. Deputy Vasquez observed multiple Elk Grove PD patrol units driving s/b on Bruceville, so he entered the pursuit.

Deputy Vasquez stated that as EGPD engaged the suspect vehicle, he parked his vehicle and exited. Deputy Vasquez advised that he heard shots being fired, so he went to the passenger side of the EGPD patrol unit that was directly behind the suspect vehicle. Deputy Vasquez stated that observed the suspect climb out of the vehicle and fall backwards onto the pavement. Deputy Vasquez assisted in handcuffing the suspect.

#### **EGPD OFFICER LORIGAN #289 STATEMENT:**

Elk Grove Police Department Officer Lorigan advised that he was working a two-officer unit with Officer Rahall. Officer Lorigan stated that Officer Rahall was the driver, and he was the passenger for their shift. Officer Lorigan stated that during their shift, he heard SSO STAR (helicopter) broadcast that a known 245 suspect was supposedly headed to a location in Elk Grove, so they set up at Sheldon and Bruceville. EGPD Officer Vigil then advised that the suspect vehicle scanned on FLOCK in Fairfield.

Later in their shift, Officer Lorigan stated that EGPD Officer Miller advised that CHP was in pursuit of the 187 vehicle on Highway 99. Officer Lorigan advised that they drove to Sheldon and Bruceville and observed the suspect vehicle through the intersection. Officer Lorigan advised that they took secondary in the pursuit, which only lasted approximately ten seconds. Officer Lorigan stated that as the suspect vehicle came to a stop, Officer Miller's car made contact with the suspect vehicle. Officer Lorigan stated that as he exited his vehicle, which was positioned to the left of Officer Miller's, he heard gunshots. Officer Lorigan stated that from his position, he was not able to see the suspect's hands. Officer Lorigan stated that he gave commands to the suspect, as the suspect moved from the driver's seat to the passenger seat.

Officer Lorigan advised that once the suspect was handcuffed, he grabbed a medical kit. Officer Lorigan stated that he observed what appeared to be a Glock 19 firearm on the front passenger seat of the suspect's vehicle.

#### **INVOLVED OFFICER'S STATEMENTS:**

**OFFICER RAHALL #317 STATEMENT:** Sworn officer for ten years. Six years as sworn officer in Ohio. Assigned as a patrol officer with Elk Grove PD for the last three years and five months.

On February 3, 2023, at approximately 0937 hours, Investigator Wagstaff and I observed and monitored the interview of Officer Rahall via remote feed. The interview took place at the Elk Grove Police Department's Administration Building at 8400 Laguna Palms Way. The interview was conducted by EGPD Detectives Bearor and Kostyuk. Also present in the interview room were attorneys [REDACTED] and [REDACTED], who represented Officer Rahall. The interview was audio recorded. Rahall stated the following in summary:

Officer Rahall advised that he has been a sworn law enforcement officer for ten years. He stated that prior to coming to Elk Grove PD, he worked for the Richland County Sheriff's Office for six years. Officer Rahall advised that he has been with Elk Grove PD for 3 years and 5 months. He is currently assigned to swing shift and on the evening of the incident, he was working a two-officer car with EGPD Officer Lorigan. Officer Rahall advised that he was the driver and Officer Lorigan was the passenger.

Officer Rahall advised that when he was driving to the police department, he heard dispatch advise that the Sacramento Sheriff's Office was looking for a 245 suspect, who was involved in a stabbing. Officer Rahall stated that dispatch advised that the suspect was driving a silver Nissan, that was missing its front grill. An EGPD POP officer provided the suspect vehicle license plate and Officer Rahall looked it up in FLOCK (LPR system). Officer Rahall said that later in the afternoon, the suspect vehicle hit a FLOCK camera in Fairfield.

Officer Rahall advised that they stopped to use the restroom, so he turned his body worn camera (BWC) off. Just then, dispatch advised that CHP was in pursuit of the suspect vehicle on the freeway. Dispatch advised that the 245 PC suspect was now a 187 PC suspect and that there was a gun in the vehicle. SSO requested that EGPD officers respond to a residence in Elk Grove in case the suspect drove there.

Officer Rahall and Lorigan drove to Sheldon and Highway 99 and retrieved spike strips from their vehicle. Officer Miller advised other EGPD units that the suspect was driving 120 mph and driving recklessly on the freeway. Officer Rahall heard that the suspect vehicle exited Highway 99 at Calvine, so he drove their patrol vehicle to Sheldon and Bruceville. Officer Rahall advised that Officers Kelly and Miller were also at Sheldon/Bruceville, waiting for the suspect vehicle. Ofc. Rahall observed the suspect vehicle drive s/b on Bruceville through the intersection at Sheldon. Officers Rahall and Lorigan took over as the second vehicle in the pursuit, behind Officer Miller's vehicle.

Officer Rahall advised that the suspect vehicle had to stop on Bruceville, just prior to Big Horn, due to heavy traffic. Officer Rahall observed Officer Miller pin the suspect vehicle's rear driver's side door with his patrol vehicle. Officer Rahall stated that he drove his vehicle to the left of Officer Miller's and parked it perpendicular to the suspect vehicle. As Officer Rahall exited his vehicle, he heard gunshots, so he unholstered his firearm. Officer Rahall advised that he saw a male black in the driver's seat of the suspect vehicle with a black handgun in his hand. Officer Rahall stated that he could only see the top of the suspect's chest and shoulders and that he saw a black handgun pointed upward, in a 45-degree angle. Officer Rahall stated that he fired approximately 9-12 rounds because he was worried that the suspect was going to shoot him. Officer Rahall stated that he was not sure if the suspect had already shot his partners. Officer Rahall stated that the suspect raised his hands and eventually came out of the passenger side of the vehicle.

Officer Rahall stated that he assisted in cutting off the suspect's clothes and administering medical assistance. Officer Rahall advised that someone moved his patrol vehicle so that the ambulance could get out of the scene.

**OFFICER KELLY #232 STATEMENT:** Sworn Officer for nine years with Elk Grove Police Department. Assigned as K-9 officer for the last five years.

On February 3, 2023, at approximately 1135 hours, Investigator Wagstaff and I observed and monitored the interview of Officer Kelly via remote feed. The interview took place at the Elk Grove Police Department's Administration Building at 8400 Laguna Palms Way. The interview was conducted by EGPD Detectives Bearor and Kostyuk. Also present in the interview room were attorneys [REDACTED] and [REDACTED] who represented Officer Kelly. The interview was audio recorded. Kelly stated the following in summary:

Officer Kelly advised that he has been a sworn law enforcement officer with the Elk Grove Police Department for nine years. Officer Kelly stated that he has been a K-9 Officer for the last five years. Officer Kelly advised that he is normally assigned to graveyards, but that on the day of the incident, he started work at 0800 hours, as it was a K-9 training day.

Officer Kelly stated that on the day of the incident, he was training at the range with the SWAT and K-9 teams. He advised that at approximately 1:30 pm, he heard EGPD dispatch put out information on a 245-stabbing suspect, from a crime that occurred in Rancho Cordova. Officer Kelly stated that information was broadcast later that the suspect was now wanted for 187 PC and that the suspect was possibly associated with an address on Cypress View, in Elk Grove.

Around 3:30 pm, EGPD Officer Vigil broadcast that the suspect vehicle scanned on FLOCK cameras in Fairfield. Officer Kelly advised that he returned to the range to continue with training, since the vehicle was out of the area. Officer Kelly stated that approximately an hour later, information was broadcast that CHP was in pursuit of the suspect vehicle on Highway 80, in Dixon. Officer Kelly stated that the Sacramento Sheriff's Office advised that the suspect was possibly enroute to the residence on Cypress View. Officer Kelly stated that Officer Miller and himself went to the area of Highway 99 and Sheldon Road, where they waited for the suspect vehicle to potentially exit the freeway.

Officer Kelly advised that he heard that the suspect vehicle exited Highway 99 at Consumnes River and turned westbound. Officer Kelly stated that he drove to Sheldon and Bruceville and waited at the intersection for the suspect vehicle. Officer Kelly stated that he saw the suspect vehicle, which earlier had been described as a silver Nissan Altima, with no front bumper, enter the intersection of Bruceville and Sheldon. Officer Kelly stated that he joined the pursuit as the third vehicle because he did not see officers from any other law enforcement agencies in the pursuit.

Officer Kelly said that the suspect's vehicle rearended two vehicles and he seemed desperate to get away. He observed Officer Miller place his patrol vehicle into the side of the suspect's vehicle. Officer Kelly advised that he saw the suspect vehicle's reverse lights go on, so he placed his vehicle against the suspect's rear bumper. Officer Kelly advised that since the suspect was wanted for murder and armed with a firearm, he needed to stop the threat to public safety and other officers.

As he exited his patrol vehicle, Officer Kelly saw the suspect open his car door and maneuver his body to the left. Officer Kelly stated that before he was able to get his patrol vehicle into park, he heard gunshots. Knowing that the suspect was armed, Officer Kelly believed that the suspect was shooting towards Officer Miller and himself. Officer Kelly advised that he feared for Officer Miller's safety, the public's safety, and his own safety, so he drew his firearm and fired 8-10 rounds into the Nissan Altima. Officer Kelly stated that he observed the suspect put his hands up and comply with officer's commands, so he reloaded his firearm. Officer Kelly advised that he never saw the suspect armed with the firearm.

Officer Kelly stated that as other officers took the suspect into custody, he looked into the suspect's vehicle and observed a black, Glock, semi-auto handgun lying on the front, passenger seat. Officer Kelly advised that he retrieved medical supplies from his vehicle and assisted with rendering aid to the suspect.

**OFFICER MILLER #157 STATEMENT:** Sworn Officer for twenty years. Assigned as a K-9 officer for the last ten years.

On February 3, 2023, at approximately 1243 hours, Investigator Wagstaff and I observed and monitored the interview of Officer Miller via remote feed. The interview took place at the Elk Grove Police Department's Administration Building at 8400 Laguna Palms Way. The interview was conducted by EGPD Detectives Bearor and Kostyuk. Also present in the interview room were attorneys [REDACTED] and [REDACTED], who represented Officer Miller. The interview was audio recorded. Miller stated the following in summary:

Officer Miller advised that he has been a sworn law enforcement officer since September of 2004. Officer Miller advised that he started his career with the Sacramento Sheriff's Office. He stated that he became an Elk Grove police officer in May of 2006. Officer Miller advised that he has been a K-9 officer with EGPD since 2014. Officer Miller stated that he normally works swing shift, but that on the day of the incident, he was attending K-9 training with the SWAT team at the Galt range. Officer Miller advised that he started his shift at 0800 hours.

Officer Miller stated that around 1 pm, he received information of a stabbing that occurred in Rancho Cordova where the suspect was possible enroute to a house in Elk Grove. The suspect was described as a male, black adult, who was wearing a red track suit and driving a Nissan Altima, that was missing its front bumper. Officer Miller stated that the SSO helicopter checked the Elk Grove residence, and the Altima was not there.

Officer Miller said that two hours later he got a call from SSO Homicide Detective Rodriguez who advised that the homicide suspect from the stabbing was possibly on the way to a house in Elk Grove. Officer Miller received information that the suspect was armed with a firearm. Officer Miller said that he left the range in Galt and started to drive to Elk Grove. On the way, he looked at a Web KPF photo of the suspect and looked up the vehicle in the FLOCK LPR system. While driving, officers received information that the suspect vehicle was in Fairfield, so Officer Miller drove to the police station on Iron Rock Way. Officer Miller stated that over his CHP scanner he

heard that CHP was pursuing the suspect vehicle on e/b Highway 80 at Dixon. Officer Miller stated that Officer Kelly and himself drove to the area of Highway 99 and Sheldon Road to see if the suspect would exit the freeway.

Officer Miller heard that the suspect vehicle exited Highway 99 at Consumnes River Blvd, so he drove his patrol vehicle to Sheldon and Bruceville, where he waited. As the suspect vehicle drove through the intersection, Officer Miller pulled out and activated his lights and siren. Officer Miller stated that he was the first vehicle in the pursuit. Officer Miller advised that just prior to Big Horn, the suspect vehicle rear ended a red pickup truck and a grey BMW. Officer Miller drove his patrol vehicle directly up against the suspect's driver's side doors, hoping to keep him from getting out and fleeing into the neighborhood.

Officer Miller exited his patrol vehicle, drew his firearm, and yelled at the suspect to put his hands up. Officer Miller stated that he observed the suspect use his left hand to open the driver's door, but that he could not see the suspect's right hand, which was concealed by his right hip. Officer Miller advised that he saw the suspect raise his right hand. Officer Miller stated that he saw a black semi-auto firearm in the suspect's right hand. Fearing for his life, Officer Miller fired his handgun. Officer Miller advised that as he was shooting at the suspect, the suspect fell backwards into the passenger seat. Officer Miller advised that his gun went dry, so he reloaded a second magazine. Officer Miller stated that he ran to the passenger side of Officer Kelly's vehicle. Officer Miller advised that the suspect came out of the passenger window and fell onto the ground. Officer Miller stated that he asked for medical aid and summoned other officers to check on the suspect.