



Sacramento County District Attorney's Office

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MEMORANDUM

DATE: October 26, 2016

TO: Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting Case No. SSD-15-271802
Shooting Officers: Benjamin Green #1347
David McEntire #1356
Troy Mohler #1127
Person Shot: Adriene Ludd (DOB 4/25/79)

The District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Adriene Ludd. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento County Sheriff's Department report number 2015-271802 and its related dispatch logs, witness interview recordings, in-car camera recordings, scene photographs, diagrams, and videos; Sacramento County District Attorney Laboratory of Forensic Services Toxicology, Blood Alcohol, Crime Scene, Physical Evidence, Firearm Examination, Gunshot Residue, and Controlled Substance reports; and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On October 22, 2015, at approximately 11:55 a.m., Sacramento County Sheriff's Deputy Daniel Rouse was driving a fully marked patrol vehicle near the intersection of Winding Way and Manzanita Avenue in Carmichael. He observed a maroon Chevrolet Impala and followed it north on Manzanita Avenue. Deputy Rouse performed a records check on the license plate and

learned that the vehicle's registration was expired. Adriene Ludd was driving the Impala with another male in the front passenger seat.

Ludd turned east onto Madison Avenue. Deputy Rouse activated his overhead lights to initiate a traffic stop. Ludd did not pull over. He continued driving on Madison Avenue and turned right onto southbound Schuyler Drive into a residential neighborhood. Deputy Rouse followed Ludd and, utilizing his patrol car's loudspeaker, ordered him to pull over. Ludd did not comply. Deputy Rouse then activated his siren in two short bursts. Ludd still did not pull over. He continued driving south on Schuyler Drive.

The tinted rear window of Ludd's Impala reduced visibility into its passenger compartment, but Deputy Rouse was able to observe Ludd reach into the rear passenger seat area and lift up an object that he believed was possibly a duffel bag. Ludd continued driving south on Schuyler Drive. Two slow moving vehicles were in front of Ludd as he approached the stop sign at the intersection with McKinney Way. Ludd accelerated quickly into the bike lane, sped through the intersection without stopping, and passed the vehicles on their right. He continued driving south on Schuyler Drive and ran the stop sign at Meadowvista Street at more than thirty miles per hour and continued on Schuyler Drive.

Deputy Rouse activated his siren and continued to pursue Ludd. Ludd ran a stop sign at Bourbon Drive at over fifty miles per hour, before turning west onto Northcrest Circle. Deputy Rouse's lights and siren were still activated as he pursued Ludd. Ludd ran another stop sign turning south onto Crestview Drive. At the intersection of Crestview and Winding Way, Ludd abruptly stopped. Ludd's passenger quickly got out of the car with his hands in the air and Ludd immediately sped off west on Winding Way. Deputy Rouse remained at the intersection with the passenger. The passenger later stated to detectives that he told Ludd to pull over, but Ludd refused. Ludd told him, "I can't do that right now, I got to take 'em on a run."

Sacramento Sheriff's Deputy David McEntire and his partner, Deputy Benjamin Green, responded to Deputy Rouse's radio broadcast that a maroon Chevrolet was failing to yield for a traffic stop. Deputies McEntire and Green left the Sheriff's Garfield Station in an unmarked white Ford Crown Victoria police car equipped with a siren and red and blue forward facing lights. Deputy McEntire drove south on Garfield Avenue to try to find the Impala. Both he and Deputy Green were wearing clothing that clearly identified them as Sheriff's deputies.

As they approached Winding Way, the deputies saw Ludd's vehicle make a fast, wide, sweeping turn in front of them from westbound Winding Way onto southbound Garfield Avenue. Deputy McEntire pursued Ludd with his lights and siren activated. Ludd accelerated to speeds exceeding eighty miles per hour on Garfield Avenue and ran a stop sign at Locust Avenue. As he fled from the deputies, Ludd often drove south in the oncoming northbound lane of Garfield Avenue. The traffic light at the intersection with Cypress Avenue was red and vehicles stopped at the red light prevented Ludd from travelling through the intersection. Ludd cut the corner and drove off the road to his right through a dirt area and back up onto westbound Cypress Avenue. Deputy McEntire followed in the same manner.

By this time, Ludd had armed himself with a stolen Intratec Tec-22 semi-automatic pistol with a high-capacity magazine.¹ As he cut the corner from Garfield onto Cypress, three eyewitnesses near the intersection saw Ludd holding a gun in his hand. One of them noted the gun's extended "banana clip." At this point in the encounter, Deputies McEntire and Green were unaware that Ludd was armed.²

As Ludd drove west on Cypress Avenue, he dramatically slowed his vehicle. At this location, the south side of Cypress Avenue is made up of residences and the north side is primarily an open field. Ludd steered the Impala left across the double yellow line into the oncoming eastbound traffic lane, towards the residences. As he reached the bike lane and curb of the oncoming traffic lane, he turned the vehicle back to his right so that it was now facing west again, but in the eastbound bike lane and gutter. As he did so, Deputies McEntire and Green saw his driver's door open. Ludd continued turning right until the Impala came to rest in the middle of the street, perpendicular to both lanes of travel, facing the field to the north. In this position, Ludd's vehicle formed a barrier between himself and the deputies. Deputy McEntire stopped his vehicle approximately four to five feet away, facing the front passenger side of Ludd's vehicle.

The manner in which Ludd slowed down and opened his door before he stopped his car led Deputies McEntire and Green to believe Ludd was going to flee on foot. They immediately got out of the patrol car to apprehend him. Rather than run away, however, Ludd got out of his car, faced the deputies, and pointed his semi-automatic handgun over the top of his car at Deputy McEntire. The deputies believed Ludd was going to kill them. They were so close that they could clearly see his gun. Deputy Green believed Ludd's firearm was possibly a fully automatic weapon and, because the extended magazine was made of clear plastic, he knew it contained more ammunition than his own pistol. When Ludd pointed the gun at them over the car, Deputies McEntire and Green feared for their lives and immediately fired rounds through Ludd's vehicle in his direction for approximately six seconds. Their shots struck Ludd's vehicle numerous times as Ludd ducked down behind it. Deputy McEntire backpedaled as he fired. He tripped and fell backwards, unsure of whether he had been shot. In his peripheral vision, Deputy Green saw Deputy McEntire go down. He did not know if Deputy McEntire tripped or had been shot by Ludd, who was now crouched behind his vehicle.

Deputy Troy Mohler was driving a fully marked Sheriff's Department SUV. He was dressed in a full Deputy Sheriff's uniform. He arrived on Cypress Avenue shortly after Deputies McEntire and Green. Deputy Mohler was still in the process of stopping his vehicle on the right shoulder of westbound Cypress when he saw Ludd pop up over the top of the Impala in a squared stance and point the gun directly over the top of the driver's side cab of the vehicle. It appeared to

¹ This firearm was reported stolen in Napa in 2006. As configured, the firearm was an illegal assault weapon under Penal Code section 30515(a)(4). Absent specific exceptions, high-capacity magazines, with the capacity to accept more than 10 rounds, are prohibited under Penal Code section 32310(a).

² Due to his prior felony convictions, it was a felony offense for Ludd to possess a firearm or ammunition. His prior felony convictions were as follows: (1) possession of cocaine for purposes of sale (Health and Safety Code section 11351.5); (2) unlawful possession of an assault weapon (former Penal Code section 12280(b)); and (3) attempting to evade a police officer while driving recklessly (Vehicle Code section 2800.2).

Deputy Mohler that Ludd began firing his gun at Deputies McEntire and Green. Deputy Mohler saw Deputy McEntire fall backward, and believed he had just been killed.

Multiple civilian eyewitnesses also observed Ludd point his weapon at the deputies before the deputies fired. One of them was Deputy Mohler's ride-along, a volunteer chaplain, who was seated in the front passenger seat. Before ducking down to the floorboard for safety, he saw Ludd "lay a gun over the roof of the car and started blasting." He stated the deputies returned fire.

A construction worker near the intersection of Cypress and Garfield working on the sewer lines saw a black male driving a dark colored sedan being pursued by deputies turn from Garfield onto Cypress. He saw the sedan and the deputies' vehicles pass by him as they travelled west and ultimately stopped in the middle of Cypress. He observed a black male get out of the sedan and start shooting at the deputies, although he was too far away to see the gun. He indicated the deputies returned fire.

The driver of a work truck was travelling east on Cypress Avenue with a co-worker in his passenger seat. The driver saw Ludd's vehicle stopped sideways in the middle of the road approximately twenty yards in front of him. His point of view was towards the driver's side of Ludd's Impala. As soon as Ludd's car stopped, he saw Ludd get out of the driver's seat holding a black semi-automatic handgun. He told investigators he saw the black male shooting at the deputies. The driver then ducked down in his truck for safety. His passenger also saw Ludd's vehicle swerve abruptly and park perpendicular to the street before a large black male adult got out and started shooting over the top of his car at the deputies with a black gun. He, too, ducked down to the floorboard until the initial round of shooting stopped. Once it did, the driver of the truck backed away from the scene and parked around a corner.

By this time, Deputy Mohler was already out of his vehicle and was standing on the north shoulder of Cypress Avenue, slightly northeast of Ludd's vehicle. He had no cover or concealment. Other than the Impala, there was nothing between him and Ludd. The empty field on the north side of Cypress was behind him. Approximately forty seconds after Deputies McEntire and Green stopped firing, Deputy Mohler briefly squatted down to try to see under Ludd's car. He saw Ludd moving around and believed Ludd was about to shoot him. He did not know if Ludd was going to fire his gun at him from under the car or if he would pop up again over the top of the car. He also recalled a training video where a suspect was injured but still used his vehicle as concealment in order to lie in wait for the officer to come around the car before shooting them. Fearing for his life, Deputy Mohler fired rounds at Ludd from the shoulder area of the road north of Ludd's vehicle. Deputy Green began approaching Ludd's vehicle and fired more rounds towards Ludd, who was still behind his car. Deputy Green saw Ludd fall backward and then roll himself back over onto his stomach.

A resident on the south side of Cypress Avenue heard the initial round of gunfire and looked out her window. She saw Ludd lying behind his car, holding what she described as an automatic weapon with an extended magazine. She ducked down, but soon put her head back up to look again. She saw that Ludd was briefly on his back before rolling onto his stomach. Ludd had his

weapon out and put his head and shoulders underneath the car. It appeared to her that he began shooting at the deputies. She saw him raise his gun up and believed he was firing it, and indicated the deputies fired back at him.

By this time, Deputy McEntire had gotten up and was positioned behind his driver's door for concealment. He looked under the Impala and saw Ludd move into a prone position on his stomach behind his left rear tire as if to get into a better shooting position. Deputy McEntire was fearful that Ludd would begin shooting him, so he fired one round under the trunk of the Impala at Ludd. He saw Ludd's gun fly southbound into the gutter behind Ludd.³

The deputies briefly held their fire, but Ludd quickly began crawling at a rapid pace directly towards the Tec-22. The deputies were certain he was going for the gun to kill them, so all three deputies resumed firing at Ludd. Ludd was struck multiple times and stopped crawling a few feet from the weapon.⁴

After securing the Tec-22, responding deputies handcuffed and searched Ludd. During the search, they found another gun stuck in a hole in Ludd's pant pocket. It was a fully operable Raven Arms MP-25 handgun with six .25 caliber cartridges in its magazine. A deputy had to cut Ludd's pants and pocket to remove it.

Deputies created an airway and performed chest compressions on Ludd until a paramedic arrived. Upon his arrival, the paramedic declared Ludd deceased.

A plastic baggie containing less than one gram of a white crystalline substance was located near Ludd's body. The substance tested presumptive positive for methamphetamine.

According to a Sacramento County District Attorney Laboratory of Forensic Services Physical Evidence Examination Report, characteristic gunshot residue particles were found on samples taken from Ludd's right hand. Gunshot residue particles are usually deposited on a person's hands by firing a gun, being near a gun when it is fired, or handling a fired gun.

A subsequent search of Ludd's vehicle located another assault weapon, large quantities of ammunition, and controlled substances. A bag in the back seat contained a semi-automatic 9mm Tec-DC9 pistol loaded with an intact cartridge in its chamber. There was no magazine in the gun; however, also in the bag were a high-capacity magazine containing thirty-three 9mm intact cartridges, another magazine containing three 9mm intact cartridges, additional empty magazines, and four 9mm intact cartridges.

A separate bag in the back seat contained three .22 long rifle caliber intact cartridges, twenty-six 9mm intact cartridges, a knotted bag of plant material, and a knotted bag of apparent mushroom

³ It is possible one of the rounds fired by Deputy McEntire struck Ludd in the hand causing him to lose control of the weapon. The Coroner's autopsy report indicates that Ludd suffered a gunshot wound to his left thumb. Deputy Lemus was driving towards the scene from the west and still a significant distance away when he saw what he described as Ludd throwing an object that appeared to be a handgun towards the gutter, and then Ludd immediately began crawling toward it.

⁴ Investigators collected 59 spent 9mm shell casings from the street on both sides of Deputy McEntire's car.

material. Another bag in the back seat contained plant material, apparent mushroom material, and two baggies of a white chunky solid material. The center console and floor behind the driver's seat contained two baggies and another container of plant material. A backpack in the back seat contained numerous plastic baggies containing plant material and white chunky solid material. The backpack also held a knotted bag containing a crystalline material and a Ziploc bag containing a brown semi-solid material. The Sacramento County Laboratory of Forensic Services tested a sample of each of the different substances. The samples contained marijuana, cocaine, cocaine base, methamphetamine, and heroin.⁵ Further, a sample of Ludd's blood was tested and the Sacramento County Laboratory of Forensic Services confirmed the presence of THC (the active ingredient in marijuana).

According to the Coroner's Final Report of Investigation, the cause of death was multiple gunshot wounds. Specifically, Ludd suffered: (1) a gunshot entrance wound to the left side of his head (that exited on the right side of his head), (2) a gunshot entrance wound to the left side of his face (that exited on the right side of his face near his eyebrow), (3) a gunshot entrance wound to the left side of the back of his head (that appeared to have exited from the same location), (4) a gunshot entrance wound to the left side of his chest (that exited on the left side of his chest), (5) a gunshot entrance wound to the left side of his torso, (6) a gunshot entrance wound to the right side of his back, (7) a gunshot entrance wound to the right side of his lower back, (8) a tangential gunshot entrance wound to the back of his left elbow, (9) a tangential gunshot entrance wound to the base of his left thumb, (10) a gunshot entrance wound to his right leg (that exited on his right hip), (11) a gunshot entrance wound to the back of his right leg, (12) a gunshot entrance wound to the front of his right ankle (that exited on the back of his right ankle), and (13) a gunshot entrance wound to the front of his left thigh (that likely exited on his left front hip).

In-car camera video footage confirmed that Ludd pointed an assault weapon at Deputy McEntire before the deputies fired their weapons. In addition, multiple civilian eyewitnesses saw Ludd point his gun at the deputies and appear to shoot at them before the deputies fired their weapons. However, a subsequent examination of Ludd's Tec-22 determined that Ludd's gun was at some point rendered temporarily inoperable. Two intact cartridges were jammed in the chamber. An additional intact .22 caliber cartridge was found on the ground near where Ludd had been standing when he pointed the gun at the officers. Twenty additional .22 caliber intact cartridges were found inside the extended magazine.

LEGAL ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 3470.) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the

⁵ The apparent mushroom material was not tested. Ludd had a California Medical Marijuana card that expired the day of the shooting.

officer may employ all force reasonably believed necessary. (CALCRIM 3470.) The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. (*Graham v. Connor* (1989) 490 U.S. 386.)

Here, Deputies McEntire, Green, and Mohler shot Ludd in self-defense. It is clear from the evidence that Ludd orchestrated an ambush on the officers. Multiple civilians saw Ludd with a gun in his hand while turning onto Cypress Avenue. Moments later, he specifically positioned his vehicle to create a barrier between him and the deputies. Then, Ludd quickly got out of his car and immediately pointed an assault weapon directly at Deputy McEntire from very close range. Deputies McEntire and Green actually and reasonably believed Ludd was trying to kill them before they fired their weapons at Ludd. But for his gun being temporarily inoperable, it is almost certain that Ludd would have killed or seriously wounded Deputy McEntire and Deputy Green. The deputies did not know that Ludd's gun was jammed. Multiple eyewitnesses also observed what they believed to be Ludd firing at the deputies before they returned fire.

Even after Ludd ducked behind his car, he continued to pose an imminent mortal threat to Deputies McEntire, Green, and Mohler. He was concealed, but the deputies were exposed. Ludd's magazine held more rounds than those in each of the deputies' guns and they did not know whether Ludd's gun had been modified into a fully automatic weapon. Moreover, Ludd had already clearly expressed an intent to kill them when he pointed a loaded assault weapon at Deputy McEntire. Nevertheless, the deputies held their fire for more than forty seconds after the initial round of shooting.

Once Ludd was observed moving behind his car, the deputies reasonably believed he was going to shoot them. They resumed firing at Ludd through his vehicle until he lost possession of his gun. After Ludd's gun was in the gutter, the deputies showed restraint and again briefly stopped firing at him, but Ludd began rapidly crawling directly towards his weapon. The deputies reasonably believed Ludd's intent was to retrieve the gun to kill them. Fearing for their safety, the deputies resumed shooting at Ludd until he stopped crawling a few feet away from his gun.

CONCLUSION

Deputies McEntire, Green, and Mohler were justified in shooting Ludd to defend themselves and each other. Under the circumstances, their conduct was reasonable. Accordingly, we find the shooting to be lawful and will take no further action in this matter.

cc: Sacramento County Sheriff's Detective Marcos Camacho #538
Sacramento County Sheriff's Deputy David McEntire #1356
Sacramento County Sheriff's Deputy Benjamin Green #1347
Sacramento County Sheriff's Deputy Troy Mohler #1127
Sacramento County Sheriff's Lieutenant Lisa Gayman #21
Sacramento County Inspector General Rick Braziel