



Sacramento County District Attorney's Office

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

Chief Michael Goold
Rancho Cordova Police Department
2897 Kilgore Road
Rancho Cordova, CA 95670

RE: Officer-Involved Shooting: Case No. SSD/RCPD-15-0232203
 Shooting Officers: SSD Sergeant Randy Winn #145
 SSD Deputy Gabriel Maggini #183
 Person Shot: Daniel Sanchez (DOB 8/22/87)
 Date of Incident: September 10, 2015

Dear Sheriff Jones and Chief Goold:

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 Daniel Sanchez. 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/Rancho Cordova Police Department report number 2015-0232203; 911 recordings; dispatch logs; witness interview recordings; scene video, diagram, and photographs; and Sacramento County District Attorney Criminal Investigative and Laboratory of Forensic Services reports.

FACTUAL SUMMARY

Ben Ledford lived at 2410 Negrara Way and had an ongoing conflict with his neighbor across the street. On September 10, 2015, at approximately 2:11 p.m., Sacramento County Sheriff's deputies called Ledford to speak to him about these issues after the neighbor reported this problem to the department's Threat Assessment Unit. Ledford became agitated, rambled about his health conditions and neighbor, and talked over the deputies. While on the phone, Ledford loaded his Norinco Mak-90 Sporter assault rifle. He placed the phone down with the line still

open and began firing multiple gunshots through his open window at the neighbor's garage and residence. He told deputies, "I'll stop when all 800 of my rounds are gone" and "I'll stop shooting when they get here and then they can arrest all 133 lbs. of me." Deputies instructed Ledford to put the gun down and lay on the ground. He did not respond and the phone disconnected. Deputies broadcasted this incident over the radio for other units to be dispatched to the scene.

When deputies arrived at Negrara Way and Lambrusca Drive, they parked a few houses north of Ledford's residence. From that position, they heard extremely loud and rapid gunfire coming from 2410 or 2414 Negrara Way. There were approximately 20 shots coming from that area, which struck the lawn, driveway, and garage door at 2411 Negrara Way, the house across the street. Additional deputies responded and formed a perimeter in the area to prevent possible escape or ambush. They heard sounds consistent with reloading of a firearm and approximately 20-30 rapid fire shots. They also observed more bullets strike the house.

Deputy Gabriel Maggini was dispatched to the scene. He and his partner parked their patrol car in front of 2434 Negrara Way, south of Ledford's residence, and heard 3-4 gunshots from down the street. They were then informed by other deputies that the subject was changing his magazine and rounds were being fired from a residence. Deputy Maggini heard an additional 12-15 loud gunshots consistent with an automatic rifle fired rapidly. Deputies advised them that the shots were likely being fired from the area of 2410 or 2414 Negrara Way. Deputy Maggini ran across the street to 2431 Negrara Way and took cover behind a brick garage wall to observe both residences just a few houses away.

At the same time, Sergeant Randy Winn arrived at this location from the south end of Negrara Way after listening to the radio broadcasts. The deputies advised Sergeant Winn that shots were being fired from a gray house with white trim, which had a baby blue pickup truck parked in the driveway. Dispatchers also provided updates that shots came from the residence with the open garage door. Both of these descriptions matched the house at 2414 Negrara Way. Deputy Maggini and Sergeant Winn saw an individual exit from an area between 2410 or 2414 Negrara Way. This individual appeared injured and was crawling northbound. Their view was then obstructed by the pickup truck. Deputy Maggini and Sergeant Winn moved north and took cover behind a truck parked in the driveway of 2423 Negrara Way. At this point, dispatchers provided information that Ledford was not compliant. Sergeant Winn tried to determine if the individual he observed was a victim of the shooting or a suspect.

From a distance of approximately 50 yards away, Deputy Maggini and Sergeant Winn then observed a second subject exit from the garage at 2414 Negrara Way and walk slowly in a crouched manner to the threshold of the garage. This second subject knelt down, faced deputies to the north end of Negrara Way, and peeked around the edge of the garage. Deputy Maggini and Sergeant Winn observed this second subject gripping what appeared to be a black object with both hands and point it in the direction of the other individual and Sheriff's deputies. Sergeant Winn also noticed that the second subject's arms were triangulated as he crouched and punching out in a deliberate and fast motion.

Deputy Brandon Gomez with the Air Operations Bureau was flying in an aircraft over the scene. Using binoculars, he observed the second subject kneeling down near the edge of the garage and manipulating what Deputy Gomez believed was a black handgun. The second subject was seen moving into a "low ready position" with his hands together and leaning further out of the garage door. Deputy Gomez advised over the radio that the object looked like a weapon and the second subject was out of the garage. Deputy Maggini heard this announcement and stated to the others that the object was a gun. Deputy Maggini and Sergeant Winn then fired a total of 12 gunshots at the second subject. The second subject retreated back into the garage at 2414 Negrara Way and closed the garage door.

The first individual observed by law enforcement was then taken into custody after walking, then sitting and sliding on his rear towards deputies at the north end of Negrara Way. He was identified as Ben Ledford. An assault rifle, cell phone, and water bottle were located where he had earlier dropped them in the area of his house at 2410 Negrara Way. When taken into custody, Ledford stated, "I am the first shooter."

Deputies continued to maintain a perimeter around the area to determine who the second subject was that retreated into 2414 Negrara Way and whether that individual was injured. As Deputy Charles Gailey was controlling traffic near the scene, Nicole Berthiaume approached him. She explained that Daniel Sanchez lived at 2414 Negrara Way and she was his ex-girlfriend. She stated that he had called her and described that he had been shot by law enforcement. While conversing with deputies, Berthiaume received a phone call from Sanchez. Deputy Manuel Konstantinidis arrived at the scene, took her phone, and conversed with Sanchez. Sanchez explained that he had been shot in his leg and wanted to come outside for medical treatment. He stated that his leg was injured and requested that deputies come inside his house to get him. Sanchez then asked for an ambulance, but initially would not explain how he got shot. Deputies in front of his house instructed Sanchez to come outside. Daniel Sanchez exited 2414 Negrara Way and was taken into custody by deputies.

Sanchez had made one of the initial phone calls to 911 to report Ledford shooting at his neighbor's house. Sanchez later told deputies that he went outside and was holding his cell phone to try and view the incident with the camera function. He stated that he understood deputies were doing their job when they shot him because they probably thought his cell phone was a gun.

Sanchez was transported to UC Davis Medical Center for treatment. He suffered non-life threatening gunshot wounds to his left knee and right wrist.

LEGAL ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. Additionally, an officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Tennessee v. Garner* (1985) 471 U.S. 1; *Graham v. Connor* (1989) 490 U.S. 386; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; California Penal Code Section 835a; CALCRIM 2670.) A peace officer may

detain a person where reasonable cause exists to believe that the person has a deadly weapon in violation of any provision of law relating to deadly weapons. (California Penal Code Section 833.5.) An officer who attempts to arrest or detain a person need not retreat or desist from his efforts by reasons of the resistance or threatened resistance of the person; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (California Penal Code section 835a.) Police may use some degree of physical coercion or threat thereof to accomplish an arrest. The force used must be objectively reasonable, considering such issues as the severity of the crime, whether the suspect posed an immediate threat to police or others, and whether the suspect actively resisted arrest or attempted flight. (*Graham v. Connor* (1989) 490 U.S. 386.) The reasonableness inquiry takes into account those facts known to the officer at the moment he or she uses deadly force to apprehend a fleeing suspect. (*Ford v. Childers* (7th Cir. 1988) 855 F.2d. 1271, 1275; *Sherrod v. Berry* (7th Cir. 1988) 856 F.2d 802, 804.)

The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; CALCRIM 2670, 2671, 2672.) The rule “requires that the officer’s lawful conduct be established as an objective fact; it does not establish any requirement with respect to the defendant’s mens rea.” (*People v. Jenkins* (2000) 22 Cal.4th 900, 1020.)

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 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, Deputy Maggini and Sergeant Winn were lawfully engaged in the performance of their duties when they fired gunshots at Sanchez, who appeared to be pointing a gun towards Ledford and other deputies. The scene itself was very chaotic and the initial reports were confusing with multiple events occurring simultaneously. Dispatchers indicated that the shooting took place in the area of 2410 or 2414 Negrara Way. The physical description of the residence and truck where the shooting was believed to take place was consistent with 2414 Negrara Way. Additionally, Ledford was observed exiting from an area between 2410 and 2414 Negrara Way. His apparent injuries and crawling movements suggested that Ledford may have been a victim in the initial shooting. Under those circumstances, Sanchez’ low crawling, deliberate, and suspicious movements near the garage at 2414 Negrara Way, as well as his handling of the black object, caused Deputy Maggini and Sergeant Winn to actually and reasonably believe that Sanchez was holding a gun. They also believed that Sanchez may have been involved in the initial shooting, using the edge of the garage as concealment, and was preparing to ambush Ledford or the other deputies. Accordingly, Deputy Maggini and Sergeant Winn fired their

weapons at Sanchez to prevent him from seriously injuring or killing Ledford and the deputies who approached Ledford from the north end of Negrara Way to detain him.

CONCLUSION

Deputy Maggini and Sergeant Winn reasonably believed that shooting Sanchez was necessary in defense of Ledford and other deputies. Under the circumstances, their conduct was justified. Accordingly, we find the shooting to be lawful and will take no further action in this matter.

Very truly yours,

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY



Michael Blazina
Assistant Chief Deputy District Attorney

cc: Sergeant Randy Winn #145
Deputy Gabriel Maggini #183
Lieutenant Lisa Gayman #21
Sergeant Paul Belli
Rick Braziel, Office of the Inspector General