



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

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MEMORANDUM

DATE: September 4, 2018

TO: Police Chief Daniel Hahn
Sacramento Police Department
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

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. SPD-2017-40177
Shooting Officers: Sergeant Randy Van Dusen #3077
Sergeant Joshua Dobson #3001
Officer William Goggin #758
Deputy James Walther #61
Person Shot: Armani Lee (DOB 1/20/1989)

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 Armani Lee. 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 Police Department report numbers 2017-40177 and 2017-34216; dispatch logs/audio; witness interview recordings; in-car camera videos; crime scene videos and photos; medical records; ShotSpotter audio recordings; Facebook records; surveillance video recordings; CHP aircraft video; and Sacramento County District Attorney Laboratory of Forensic Services Toxicology, Blood Alcohol, and Physical Evidence Examination reports.

FACTUAL SUMMARY

On February 10, 2017, at approximately 2:00 p.m., Sacramento Police Department (SPD) officers and a Sacramento Sheriff's Department (SSD) deputy were attempting to locate and

arrest Armani Lee. He was the suspect in a shooting that occurred approximately one week earlier. The officers and deputy were surveilling a residence near Land Avenue and Del Paso Boulevard in the City of Sacramento, as they had information Lee was at this location and in possession of a handgun.

Lee exited the residence and proceeded to walk west on Land Avenue towards Del Paso Boulevard. As he turned and walked south on Del Paso Boulevard, SPD Officer William Goggin and SSD Deputy James Walther in an unmarked gold Ford Explorer intercepted him while he was on the sidewalk. Officer Goggin wore a black vest with yellow letters displaying the word "POLICE" and Deputy Walther wore a black vest with yellow letters displaying the word "SHERIFF." Directly to the west of their Ford Explorer was a Ford pick-up truck driven by Sergeant Randy Van Dusen. He was also wearing a black vest with the word "POLICE" displayed in large yellow letters on the chest area. When Lee saw the vehicles and their occupants, he turned north and ran up the sidewalk. He reached into the waistband of his pants and withdrew a Glock .40 caliber semi-automatic handgun as he was running. Officer Goggin observed the handgun and yelled, "Gun!"

When Lee returned to the intersection of Land Avenue and Del Paso Boulevard, a marked Sacramento Police Department patrol vehicle driven by Sergeant Joshua Dobson was approximately twenty yards east on Land Avenue proceeding towards Del Paso Boulevard. Sergeant Dobson was in uniform. Lee pointed his handgun at Sergeant Dobson, who was sitting in the driver's seat, and fired several times. Sergeant Dobson's vehicle was struck four times by gunfire: twice on the front passenger side lower push bumper, once on the front driver's side grill below the push bumper, and once on the driver's side view mirror. Officer Goggin and Sergeant Van Dusen were standing outside their respective vehicles and observed Lee discharging his gun. Officer Goggin then fired multiple shots at Lee.

Lee proceeded to run in a northwest direction across the lanes of Del Paso Boulevard. SPD Officer Nicholas Tavelli was driving south on Del Paso Boulevard in an unmarked black Nissan Altima displaying a solid red light on its dashboard while its front headlights alternated between flashing red, blue, and white lights. Lee pointed his handgun towards Officer Tavelli and fired approximately four or five rounds. Sergeant Dobson and Deputy Walther were now outside their respective vehicles and they observed Lee pointing his gun in Officer Tavelli's direction. Sergeant Van Dusen, Sergeant Dobson, and Deputy Walther fired their handguns at Lee. Sergeant Van Dusen observed Lee turn, point, and fire his handgun at him as Lee continued to run. Lee ran across Del Paso Boulevard and collapsed on the west side of the street on the front lawn of a residence.

Officers approached Lee, recovered his handgun, assessed his injuries, and called for medical assistance. Sacramento Fire Department and medics arrived approximately seven minutes later and transported Lee to the UC Davis Medical Center. Lee sustained gunshot injuries to his left shoulder, left jaw, left abdomen, and left buttock. He underwent surgeries for his injuries and recovered. A blood sample taken from Lee at the medical center and tested by the Sacramento County District Attorney's Office Laboratory of Forensic Services confirmed the presence of cannabinoids.

A forensic examination of the recovered expended shell casings and firearms determined Sergeant Van Dusen fired ten rounds, Sergeant Dobson fired ten rounds, Officer Goggin fired six rounds, and Deputy Walther fired three rounds. It was also determined that nine Sig Sauer brand .40 caliber S&W expended shell casings recovered on Del Paso Boulevard were fired from Lee's Glock .40 caliber handgun.

Lee is currently pending charges in Sacramento Superior Court case number 17FE002754 related to this incident of three counts of violating Penal Code section 664/187 (attempted murder of a peace officer), and one count of violating Penal Code section 29800(a)(1) (felon in possession of a firearm). He is also pending charges in the same case of one count of violating Penal Code section 29800(a)(1) (felon in possession of a firearm) and one count of violating Penal Code section 246 (firing at an occupied dwelling) for the incident that occurred approximately one week prior. The matter is scheduled for a trial status conference on September 7, 2018.

LEGAL ANALYSIS

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, 11; *Graham v. Connor* (1989) 490 U.S. 386, 396; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; California Penal Code section 835a; CALCRIM 2670.) 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.) Officers do not need to retreat or desist their efforts if the person they are arresting or detaining resists or threatens resistance; 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.)

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 505, 507, 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.)

In this situation, Lee attempted to avoid apprehension by using deadly force. Upon seeing law enforcement officers, he chose to immediately flee, reach for his firearm, and fire multiple shots at them. Officer Goggin, Deputy Walther, and Sergeants Van Dusen and Dobson knew Lee was a suspect in another shooting just days earlier. Given their knowledge of the situation, their observations of Lee shooting at Sergeant Dobson in a marked vehicle, and Lee continuing to run from officers while raising his gun and firing at additional officers, Officer Goggin, Deputy

Walther, and Sergeants Van Dusen and Dobson shot at Lee to defend other officers and themselves. Although Lee was running away when Sergeant Dobson exited his vehicle and fired his gun, Lee had shot at him and he was reasonably responding to Lee's continuing threat to his life and the lives of his fellow officers and members of the community. Officer Goggin, Deputy Walther, and Sergeants Van Dusen and Dobson were not required by law to retreat. Given the circumstances, it was reasonable to believe that Lee would continue to fire his handgun at officers when they used deadly force to stop the imminent danger that he posed.

CONCLUSION

Officer Goggin, Deputy Walther, and Sergeants Dobson and Van Dusen believed shooting Lee was necessary in defense of themselves, other officers, and the community. Under the circumstances, their conduct was justified. Accordingly, we find the shooting to be lawful and will take no further action in this matter.

cc: Sacramento Police Detective Bryan Alonso #803
Sacramento Police Sergeant Randy Van Dusen #3077
Sacramento Police Sergeant Joshua Dobson #3001
Sacramento Police Detective William Goggin #758
Sacramento Sheriff Deputy James Walther #61
Francine Tournour, Office of Public Safety Accountability
Rick Braziel, Office of the Inspector General