



Sacramento County District Attorney's Office

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DATE: October 19, 2020

TO: Chief Ronald A. Lawrence
Citrus Heights Police Department
6315 Fountain Square Drive
Citrus Heights, CA 95621

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting Case No. CCH-19-05301
Shooting Officer: CHPD Officer Kyle Shoberg #304
Shooting Officer: CHPD Officer Joseph Spurlin #467
Person Shot: Grayson Isaiah Schuessler (DOB: 12/16/92)

The District Attorney's Office, as an independent agency, has completed its investigation and 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 Grayson Schuessler. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other documentary items. These items include Citrus Heights Police Department Report 19-05301, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, Sacramento County District Attorney Laboratory of Forensic Services report, evidence logs, and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On July 9, 2019, at approximately 7:25 p.m., Citrus Heights Police Department (CHPD) dispatch received a 9-1-1 call from a witness regarding a gunshot outside the Women's Department of the Macy's at Sunrise Mall in Citrus Heights. The witness stated she heard a single gunshot as she and a friend walked from the south entrance of Macy's towards their vehicle in the parking lot. She said that she turned around and saw a white male adult, later identified as Grayson Schuessler, walking away from the same south entrance of Macy's. She said that one of the glass doors to the store was shattered, and that Schuessler put what appeared to be a silver handgun in his right front pocket.

CHPD Officer Kyle Shoberg, in uniform and driving a marked patrol vehicle, was with his K9 partner Axel at a separate call for service nearby when he heard dispatch report a call of shots fired at the Sunrise Mall. Dispatch provided a suspect description and advised that the suspect had a silver gun in his pocket area and was running on foot through the parking lot. Officer Shoberg responded and arrived at the south end of the mall at approximately 7:31 p.m.

Upon arrival, Officer Shoberg saw Schuessler running towards Red Robin restaurant, located approximately 300 yards to the north of Macy's. Officer Shoberg saw numerous people in the parking lot. As Officer Shoberg drove after him, Schuessler ran around Red Robin and turned eastbound onto the south sidewalk of Greenback Lane. Officer Shoberg reached Greenback Lane and proceeded eastbound.

CHPD Officer Joseph Spurlin, in uniform and driving a marked patrol vehicle, also responded to the shots fired call. Based upon the radio traffic, he believed there was an active shooter at the mall. He responded to the east side of the mall, arriving a very short time after Officer Shoberg. Officer Spurlin drove through the parking lot and saw approximately 50 people standing outside Red Robin. He then saw Officer Shoberg's patrol vehicle pass him and heard Officer Shoberg announce over the radio that he had Schuessler in sight. Officer Spurlin drove after Officer Shoberg in pursuit of Schuessler onto Greenback Lane.

Officer Shoberg drove past Schuessler and stopped his vehicle in front of Schuessler, cutting him off. He did not see anything in Schuessler's hands at this point.

Officer Shoberg got out of the vehicle, removed his K9 from the vehicle, and drew his handgun. He commanded Schuessler to get on the ground or he would be bitten by the K9. In response, Schuessler turned around and ran away from Officer Shoberg, westbound towards Brake Masters which is immediately to the east of Red Robin.

Officer Spurlin exited his vehicle. Officer Spurlin drew his service weapon and yelled for Schuessler to stop running and show his hands. Schuessler gave Officer Spurlin a "cold stare," reached into his waistband, and pulled out a gun as he continued to run in the direction of the large group of bystanders.

Officer Shoberg released his K9 who ran after Schuessler as Officer Shoberg followed behind. As they ran westbound on Greenback Lane, Schuessler turned back toward the officers with his arm extended at shoulder height and pointed a handgun at them. Officer Shoberg believed that Schuessler was going to kill him, so he fired at Schuessler. Schuessler fired one round. After the incident, Officer Shoberg could not remember whether he or Schuessler fired first. Officer Spurlin heard a "pop" that he believed was Schuessler firing one round, and Officer Spurlin fired four to five rounds at Schuessler.

Schuessler ran towards the front entrance to Brake Masters. Believing he had to stop Schuessler before Schuessler killed someone, Officer Spurlin ran after him. Schuessler turned as he ran and fired a round at the officers, and Officer Spurlin returned fire.

The K9 caught up to Schuessler and bit him. In response, Schuessler pointed his gun at the dog

and fired, causing the K9 to disengage. Officer Shoberg thought his K9 had been shot. He then saw Officer Spurlin to his right, firing his handgun at Schuessler. The K9 then reengaged with Schuessler, bit him below the waist, and dragged him to the ground on his stomach in some shrubby planters next to Brake Masters.

Schuessler rolled onto his back, extended both arms, pointed his firearm directly at Officer Shoberg, and fired one or two additional rounds. Officer Shoberg felt something “slap” his side and he returned fire until his gun was empty. He then ran to a nearby police vehicle, reloaded, and saw Schuessler still in the planters and pointing his gun towards Officer Shoberg. Officers Shoberg and Spurlin fired several times until Schuessler stopped moving.

CHPD Officer Todd Ross and other CHPD officers arrived on scene to assist. Officer Ross saw Officers Shoberg and Spurlin checking themselves for injuries. Prior to approaching Schuessler, he and other officers gave Schuessler commands to show his hands but Schuessler did not respond. The officers began to approach and Officer Ross saw a silver .357 magnum revolver with a wooden handle on the ground in the planter area to the right of Schuessler about one foot from his hand. He seized the firearm, placed it in a plastic bag, and then retrieved his first aid kit and returned to Schuessler’s location. Schuessler had been secured in handcuffs and Officer Ross began providing medical aid and assessing Schuessler’s injuries. He pulled Schuessler’s shirt up and saw two circular wounds to the chest area that were bleeding. CHPD Officer Patrick McCoy and Officer Ross applied direct pressure to the wounds with gauze and checked for vital signs, but Schuessler was non-responsive. Sacramento Metro Fire personnel arrived and rendered emergency medical treatment and ultimately declared Schuessler deceased at the scene.

Officer Shoberg believed he and his K9 had been shot, but upon closer inspection he realized that he had a hole in his protective vest and undershirt and bruising on the left side of his torso. Axel had blood on his shoulder and was taken to the animal hospital, but it was determined he had no injuries.

CHPD crime scene investigators and a Sacramento County Coroner investigator processed the scene. The Coroner investigator collected four .357 rounds of ammunition from Schuessler’s left rear pocket, several additional .357 rounds from a plastic bag in Schuessler’s left front pocket, and one .357 round underneath Schuessler’s body. Officer McCoy located a black air soft gun without an orange tip in Schuessler’s pocket.

Crime scene investigators located multiple spent shell casings along the path of travel of Schuessler and the pursuing officers. There were visible gunshot holes to the stucco and windows of Brake Masters and there was a gunshot strike to a pickup truck in the parking lot of Red Robin.

Round counts were subsequently conducted on both Officer Shoberg and Officer Spurlin’s handguns. The round count determined that Officer Shoberg fired 14 rounds and Officer Spurlin fired 13 rounds during the course of the incident. The revolver recovered by Officer Ross had one live round and five expended shell casings in the cylinder.

The Sacramento County Coroner determined that Schuessler’s cause of death was “multiple

gunshot wounds.” It was established that Schuessler had been struck six times, two of those being superficial.

A sample of Schuessler’s femoral blood was analyzed by the Sacramento County District Attorney’s Office Laboratory of Forensic Services and found to contain oxycodone.

A surveillance video from inside the Macy’s Women’s Department was reviewed. The camera was inside the store, pointed towards glass doors to the parking lot. The video shows a subject that appears to be Schuessler slowly walking on the sidewalk towards and then past the doors. Approximately one second after Schuessler passes out of the camera’s view, one of the glass doors shatters and glass shards scatter inside the store.

A video obtained from a nearby business was reviewed. The business is located on the north side of Greenback Lane directly across the street from Brake Masters, and the camera faced south. The video shows Schuessler running north through the parking lot toward Greenback Lane. Marked patrol vehicles are seen with their emergency lighting equipment activated in pursuit as Schuessler runs eastbound on Greenback Lane. Schuessler and the patrol vehicles leave the frame of view for a brief moment and then the video shows Schuessler running west toward Brake Masters with the K9 chasing after him. Then Schuessler points a firearm toward the K9 and the officers pursuing him on foot. Schuessler runs in front of the landscaped entrance to Brake Masters, the K9 lunges at Schuessler, and Schuessler falls to the ground. Officers continue pursuing him and Schuessler points the gun toward Officer Shoberg. The front wall and window of Brake Masters appear to be struck by gunfire and Officer Shoberg moves back to a marked patrol vehicle. He circles around the patrol vehicle on the street and returns to the location of other officers. An additional officer arrives and the K9 runs back to Officer Shoberg. There is no additional movement from Schuessler.

LEGAL ANALYSIS

A peace 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 detain or arrest the person, to prevent the person’s escape, or to overcome the person’s resistance. (California Penal Code section 835a; CALCRIM 2670.) An officer who detains or arrests a person does not need to retreat or stop his or her efforts if the person resists or threatens resistance. Moreover, using reasonable force does not make the officer an aggressor or cause him or her to lose the right to self-defense. (California Penal Code section 835a.) The person being detained or arrested has a duty to permit himself or herself to be detained, and the person must refrain from using force or any weapon to resist arrest. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; California Penal Code section 834a; CALCRIM 2670, 2671, 2672.)

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.)¹ 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 the present matter, Officers Shoberg and Spurlin had been dispatched to a “shots fired” call involving a subject with a gun in a public place. The information they had from dispatch was that a witness saw Schuessler with a gun and that he had apparently shot out a window of Macy’s. When they saw Schuessler running through crowded parking lots and by open businesses with many civilians nearby, they were aware that Schuessler posed a potential for danger to others. When the officers intercepted Schuessler on Greenback Lane they gave him commands to stop and get on the ground but he refused. Officers Shoberg and Spurlin clearly had reasonable cause to detain Schuessler and Schuessler had a duty to submit himself to their custody. He failed to do so and instead ignored the officers’ commands and continued to run.

As the officers pursued Schuessler on foot, they did not know what his intentions were, but they did have reason to believe that he was armed, had already used his gun once, and knew he was running through a public space with multiple open businesses and dozens of civilians who could potentially become victims. Both officers were reasonable in their fear that they or any of the nearby civilians were in danger of being shot by Schuessler.

After the K9 was released in an effort to detain him, Schuessler continued to run from the officers, pointed his gun at the K9 and the officers, and exchanged fire with them. Even after Schuessler was taken to the ground by the K9, he fired again at the officers, with one round appearing to have struck Officer Shoberg in his protective vest.

Given all of these circumstances, the officers’ belief that Schuessler posed an imminent danger of death or great bodily injury to others was reasonable.

CONCLUSION

Based on the circumstances of this incident, Officers Shoberg and Spurlin were justified in shooting Schuessler to defend themselves, each other, and the surrounding civilians. Schuessler posed a significant threat of death or serious physical harm to the officers and the

¹ This incident occurred prior to California Assembly Bill 392’s amendments to Penal Code sections 196 and 835a. Therefore, this incident is analyzed under the law as it existed at the time of the events.

public. Accordingly, we will take no further action in this matter.

cc: Citrus Heights Police Department Officer Kyle Shoberg
Citrus Heights Police Department Officer Joseph Spurlin
Citrus Heights Police Department Detective Michelle Drake
Kimberly Gin, Sacramento County Coroner's Office