



Sacramento County District Attorney's Office

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DATE: December 21, 2020

TO: Sheriff Scott Jones
Sacramento County Sheriff's Office
4500 Auburn Boulevard
Sacramento, CA 95841

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting Case No. 19-383948
Shooting Officers: Deputy Mark Gomes, #366
Deputy Jerry Hunter, #738
Deputy John Seubert, #1295
Person Shot: Ernest Easterling (DOB: 9/18/94)

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 Ernest Easterling. 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 the following: Sacramento County Sheriff's Office Report 19-383948, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, Sacramento County District Attorney Laboratory of Forensic Services reports, evidence logs, and the Sacramento County Coroner's Final Reports of Investigation.

FACTUAL SUMMARY

On October 26, 2019, Ernest Easterling and Chanel Brown were in a dating relationship. About 8:00 p.m. on that date, Easterling and Brown went together to a friend's apartment at the Eagle's Nest Apartments at 5737 Angelina Avenue in Carmichael, California, for a social gathering. The gathering was in Apartment #32. The complex is a two story, multi-unit apartment complex located near Fair Oaks Boulevard and Stanley Avenue.

Other adults and children were present at this gathering as the guests participated in a "seafood boil." According to witnesses, both Easterling and Brown were also drinking vodka.

The gathering continued past midnight into the morning of October 27, 2019. A witness who was present inside the apartment stated that at some point after midnight, Easterling's mood changed, and he became angry. Ms. Brown attempted to talk to Easterling and calm him down. Brown and Easterling exited and re-entered the apartment several times.

According to witnesses, at approximately 12:30 a.m. on the morning of October 27, Brown and Easterling were arguing in the parking lot outside of the apartment complex near Easterling's silver Chevrolet Malibu. During the argument, Easterling returned to Apartment #32. As Easterling did so, Ms. Brown entered the driver's seat of Easterling's car, made a U-turn, and crashed the car into a tree across the street. This enraged Easterling. He returned to the car and removed a black handgun from behind the driver's seat. Easterling struck Brown with his hands and the gun and also pointed the gun at her. Two different witnesses also reported that Easterling pointed his gun at them as well. As he did so, Easterling asked one of the witnesses, "Are you calling the police?" The witness returned to her apartment and closed the door.

An eyewitness called 9-1-1 at approximately 12:32 a.m. and reported that a vehicle had crashed into a tree and that a black male adult was "flipping out and waving a gun around at a female passenger." Deputies were dispatched to the scene.

Before Sheriff's deputies arrived, Easterling's threatening behavior continued. A witness saw Easterling push Brown down to the ground and point his gun at Brown's head. Easterling declared that he was going to go get his "50." Easterling then said, "If the cops come, you are all dead."

Sheriff's Deputies John Seubert, Mark Gomes, Jerry Hunter, and Anthony Chillelli arrived on scene at approximately 12:40 a.m. All four deputies were in full Sacramento County Sheriff's uniforms. Deputies Seubert, Hunter, and Chillelli were driving marked patrol vehicles. Deputy Gomes was riding as a passenger in the vehicle driven by Deputy Hunter.

As Deputy Seubert arrived at the apartment complex, he saw the Malibu crashed into the tree and confirmed that no one was inside the car. Deputy Seubert then began to look for the subject with the gun.

Deputy Seubert saw a white female adult run southbound towards a white Lexus and heard a second female adult yell, "He's got a gun."

Deputy Seubert then saw a black female adult dressed all in black, later confirmed to be Chanel Brown, standing directly in front of the door of Apartment #32. Deputy Seubert asked Ms. Brown the location of the male subject. She indicated he was inside the apartment. Deputy Seubert then took a position behind a dark sedan, directly in front of the apartment door.

Deputy Seubert saw a black male adult in a white shirt, later confirmed to be Ernest Easterling, just inside the door of Apartment #32. Easterling was holding a black object in his hand.

Deputy Seubert directed Ms. Brown to move away from the doorway. Instead, Ms. Brown moved in front of the open doorway, obstructing the officer's view inside. Deputy Seubert again

directed Ms. Brown to move away from the door.

Easterling remained inside the apartment. Deputy Seubert instructed Easterling to raise his hands, saying to Easterling, "I saw your gun. Show me your hands!" This was repeated several times.

At this point, Deputy Gomes was nearly alongside Deputy Seubert, in a position behind a blue sedan directly across from the door to Apartment #32. Deputy Hunter was located further to the south, taking cover behind a tree. Deputy Hunter could not see the front door to Apartment #32 due to a wooden patio fence just outside the front door.

Ms. Brown then began to move away from the front door of Apartment #32 as Deputy Seubert had directed. As she did so, Ernest Easterling quickly exited from the apartment with both hands extended in front of him in a shooting stance and holding a black object. Easterling moved quickly towards Ms. Brown and began firing at her from extremely close range.

Deputies Seubert, Gomes, and Hunter recognized the immediate threat to the life of Ms. Brown. All three officers fired several shots at Easterling to try and stop the assault on Ms. Brown. Ms. Brown fell first. Easterling then fell on top of her.

Deputy Seubert advised over the radio that shots had been fired. He observed that Easterling was no longer moving and requested approval to approach. Deputies then moved in, placed Easterling in handcuffs, and advised that the fire department was clear to enter to provide medical assistance. Deputy Seubert saw that Easterling's gun was underneath him and that the gun had an attached 50-round capacity drum-style magazine.

Both Easterling and Ms. Brown were pronounced dead at the scene.

The resident in the apartment immediately next door to Apartment #32 had a "Ring" brand doorbell camera installed. The "Ring" camera is motion-activated and makes 30-45 second video clips. The footage is not continuous, leaving gaps in the activity. The recordings for the morning of October 27 were reviewed, as follows:

At 0003 hours, Easterling walks out of Apartment #32 and says, "I don't trust nobody." He and Ms. Brown walk north. Ms. Brown then re-enters and re-exits the apartment, and re-enters again at 0008 hours.

At 0013 hours, Easterling knocks on the door to Apartment #32 and calmly asks for his phone charger. At 0014 hours, Easterling and Brown are heard arguing outside the apartment.

Brown enters the apartment at 0016 hours and exits again three minutes later. She moves south out of camera view. An unknown person is heard exclaiming, "Oh, my God!"

At 0020 hours, Ms. Brown passes in front of the apartment door. Yelling is heard in the background.

At 0029 hours, Easterling exits Apartment #32 and is heard yelling, "It's real, Nigga!" He also yells, "Hey, Bitch, you better stop," and "Bitch, you broke my car!" Easterling is carrying a dark object in his left hand. Ms. Brown is heard yelling, "It's an accident!" Easterling replies, "Bitch, you weird."

At 0030 hours, with Brown and Easterling out of camera view, other people present are seen and heard discussing what to do. They retreat back into Apartment #32.

At 0031 hours, Easterling is seen with his arm around Ms. Brown's neck in a headlock as he drags her to the door while he is yelling. Easterling tries to kick in the door to Apartment #31. Easterling is holding a handgun in his left hand. Easterling throws Ms. Brown to the ground. He then yells, "You got the police called on me. When they come, I am blasting you!" Further arguing is heard. Easterling strikes Ms. Brown when she is on the ground. Ms. Brown is heard saying, "Ernest, stop."

At 0032 hours, Easterling drags Brown into Apartment #32 and yells, "You ruined my fucking car!"

At 0033 hours, two of the residents of the complex discuss calling the cops. Ms. Brown exits the apartment and heads north.

At 0034 hours, Easterling is arguing with the resident of Apartment #32. Easterling states, "I'm gonna get my 50." Easterling also states, "I'm going to kill me." The resident of the neighboring apartment points out her "Ring" doorbell camera to Easterling. Easterling curses. He then states, "Go get my 50."

At 0035 hours, arguing is heard.

At 0036 hours, Easterling is heard yelling, "You broke my brand-new car!"

At 0038 hours, Easterling and Ms. Brown are seen arguing. The large capacity magazine is seen attached to Easterling's handgun.

At 0040 hours, Easterling exits the apartment with the gun. He looks south, then quickly rushes back into the apartment. Screaming is heard in the background. A Sheriff's marked patrol vehicle turns onto Angelina Avenue. The resident of the neighboring apartment exits her apartment and yells to the deputies, "He's got a gun."

At 0041 hours, Ms. Brown exits Apartment #32. She tells Easterling to go upstairs and hide. She turns away from Easterling, moves to her right, and says, "Just put it down." Easterling runs out of Apartment #32 and starts to shoot Ms. Brown from behind. The Sheriff's deputies then fire multiple rounds at Easterling.

At 0045 hours, deputies approach Easterling and Ms. Brown as they are laying on the ground. Easterling's gun is moved.

Crime scene investigators responded to the scene. They collected Easterling's firearm, a Glock 22 .40 caliber handgun with an attached 50-round capacity cylindrical drum magazine. Crime scene investigators also found a loaded .40 caliber 10-round magazine in Easterling's front pants pocket. An empty 10-round magazine and 8 loose, live .40 caliber rounds were located inside Easterling's Chevrolet Malibu.

Twenty-five spent 9mm Luger shell casings were found. Eighteen were found in the roadway directly across from Apartment #32. Seven were found on the sidewalk at the southwest corner of the apartment complex. These are the two areas where the three officers fired their weapons.

Seven spent .40 caliber casings were recovered in the area in front of Apartments #31 and #32.

Autopsies were performed on both Chanel Brown and Ernest Easterling. On October 29, 2019, the Sacramento County Coroner determined that Ms. Brown's official cause of death was "multiple gunshot wounds." Specifically, she was struck five times, to the left breast, right knee, back of the neck, and twice in the back. One of the two wounds to the back is consistent with a hard contact wound, which is a wound inflicted when the muzzle of a gun is held tightly against the body at the time of discharge.

On October 29, 2019, the Sacramento County Coroner determined that Ernest Easterling's official cause of death was "multiple gunshot wounds." Easterling was struck nine times, to the mouth, torso, left flank, upper back, left buttock, left foot, twice in the left thigh, and once in the head.

The Sacramento County District Attorney's Office Laboratory of Forensic Services examined samples of femoral blood from Easterling. The laboratory determined that Easterling's blood sample contained a blood alcohol concentration of .137%.

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.)

In the present matter, the Sheriff's deputies had been dispatched to a call of a car crash and a male subject "waving a gun around" at a female passenger. When the deputies arrived at the apartment complex, they observed a woman running, and heard a second woman yell, "He's got a gun!" They located Ms. Brown standing outside Apartment #32 and could see Easterling

standing inside the apartment through the open door. The deputies were aware there was a potential for danger to others. The deputies advised Easterling they could see his gun and directed Easterling to show them his hands. Easterling refused. The deputies clearly had reasonable cause to detain and subdue Easterling for these public offenses. Easterling had a duty to submit himself to the deputies' custody. He failed to do so. Instead, Easterling ignored the deputies' commands, exited the apartment, and began firing his weapon repeatedly at Chanel Brown.

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.)

Here, Deputies Gomes, Hunter, and Seubert were reasonable in their belief that Easterling posed an imminent danger of death or great bodily injury to Chanel Brown and a subsequent danger to themselves, each other, and the public who were in the immediate vicinity of the surrounding apartments. Deputy Seubert told Easterling that he saw his gun and gave Easterling multiple commands to show his hands. Easterling refused to follow these commands, choosing instead to open fire on the defenseless Chanel Brown. Easterling was actively firing his weapon at an unarmed woman, in complete disregard for the consequences of his actions, despite the presence of armed Sheriff's deputies mere feet away. The situation demanded an immediate response from the deputies. No other conclusion could reasonably be reached.

CONCLUSION

Based on the circumstances of this incident, Deputies Gomes, Hunter, and Seubert were justified in shooting Easterling in defense of Chanel Brown, themselves, each other, and the surrounding civilians. Easterling presented an active, immediate and significant threat of death or serious physical harm to Ms. Brown, the deputies and the public. Accordingly, we will take no further action in this matter.

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.

cc: Deputy Mark Gomes, Sacramento Sheriff's Office
Deputy Jerry Hunter, Sacramento Sheriff's Office
Deputy John Seubert, Sacramento Sheriff's Office
Detective Robert Peters, Sacramento Sheriff's Office
Kimberly Gin, Sacramento County Coroner's Office