



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Stephen J. Grippi
Chief Deputy

Michael M. Blazina
Assistant District Attorney

DATE: June 7, 2021

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

FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case No. SSO-20-67422
Shooting Officer: SSO Deputy Andrew Durham #195
Person Shot: Devon Slycord (DOB 9-26-1990)

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above-referenced officer-involved shooting. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Devon Slycord. 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 Sacramento County Sheriff's Office report 20-67422, video and audio recordings, in-car camera recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, Sacramento County District Attorney Laboratory of Forensic Services reports, and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

At approximately 3:09 p.m. on February 24, 2020, an employee of the Phoenix School, located at 4110 Skyland Court in Antelope, called 9-1-1 to report a suspicious subject near the school.

The 9-1-1 caller stated that a white male adult wearing a white sweatshirt and gray sweatpants was in the school parking lot holding a gun. The caller told the 9-1-1 operator that at one point the subject pointed the gun at his own head. The caller added that all the children had been brought into classrooms inside the school.

Sacramento Sheriff's Office Deputies Andrew Durham, Hector Chavez, and Michael Keegan were in the parking lot outside Starbucks in the WinCo shopping center located at 4137 Elverta Road in Antelope. All three deputies were dressed in full uniform and were driving marked patrol vehicles. At approximately 3:10 p.m., the three deputies received a dispatch regarding a white male adult holding a firearm outside the Phoenix School.

Deputy Chavez realized that the Phoenix School was in the same parking lot where the deputies were currently standing. The Phoenix School is in the southwest corner of the WinCo shopping center, separated from the main parking lot by a low retaining wall. The retaining wall ends with an entrance onto Skyland Court and the school parking lot. Deputy Chavez radioed dispatch that he was almost already on scene and to assign him to the call. Deputy Chavez also told Deputy Durham and Deputy Keegan to get in their vehicles and respond to the call with him.

The three deputies began to drive their patrol vehicles northbound through the parking lot towards WinCo. Deputy Durham was in front. As they were driving, Deputy Durham was concerned about the suspicious subject possibly being an active shooter in the school parking lot. Deputy Durham also noticed that the shopping center was very crowded with vehicles and pedestrians. He activated his overhead lights to get people to move out of their way. This also activated his in-car camera.

The three deputies turned westbound at the WinCo towards the school parking lot. They arrived in front of the low retaining wall at approximately 3:12 p.m. Deputy Durham saw the subject of the call, later identified as Devon Slycord, sitting on a tree stump, leaning forward, just east of the low retaining wall. Slycord had long blonde hair and was wearing a white shirt and blue jeans.

The three deputies stopped their vehicles approximately 50 feet away from Slycord. Deputy Durham's vehicle was in the center, with Deputy Keegan to his left and Deputy Chavez to his right. Both Deputy Chavez and Deputy Durham noticed that Slycord was holding a gray handgun with a black handle in his right hand, pressed against the right side of his face. Deputy Chavez further noticed that Slycord appeared to be gripping the handle of the gun tightly. He saw that Slycord's long hair partially obscured the gun, making it difficult to see where the gun was pointed.

Deputy Durham quickly got out of his car and drew his handgun. He took cover in the wedge between his car and the open driver's side door and immediately directed Slycord to drop his gun. Deputies Chavez and Keegan also exited their vehicles and drew their firearms.

Deputies Chavez and Durham both noticed that Slycord appeared startled by the deputies' arrival, but kept his gun pointed at his head. Deputy Chavez radioed dispatch that they had the subject in front of them and the subject was holding a gun.

Deputy Durham continued to direct Slycord to drop the gun. He ordered Slycord to drop the gun six times, but Slycord did not comply.

Deputy Chavez feared for his safety because he was in such close proximity to an armed subject. He decided to holster his handgun and arm himself with a rifle from his patrol car.

Deputy Durham saw that Slycord looked at each of the deputies individually as if Slycord was scanning for targets. Deputy Durham also noticed that the retaining wall behind Slycord was only about three feet high and that Slycord could easily scale the wall and have access to the school on the other side.

Because of the manner in which Slycord was holding the gun, Deputy Durham believed that it would be relatively easy for Slycord to fire at Deputy Chavez to Slycord's left without needing to move the gun very far. Deputy Durham felt in fear for his life and the life of his partner, Deputy Chavez. He was also in fear for anyone in the shopping center, as whichever direction Slycord fired would put someone's life in jeopardy.

Slycord made a slight but sudden movement with his left hand and Deputy Durham then heard a gunshot. Deputy Durham saw what he thought was a muzzle flash or smoke come out of the gun. Slycord's body began to move slightly more upright with the gun still in Slycord's right hand.

Deputy Durham did not realize that Slycord had just shot himself in the head. As the muzzle flash or smoke that he saw indicated to him that Slycord's shot had traveled from right to left, Deputy Durham believed that Slycord had just fired one round at his partner, Deputy Chavez, who was standing in that direction. Deputy Durham fired one round from his handgun almost immediately after Slycord fired, striking Slycord in the right abdomen.

Slycord fell onto the ground on his right side, still holding the gun. Deputy Chavez broadcast that shots were fired. Deputy Chavez was asked over the radio whether any deputies had fired. Deputy Chavez stated that no deputies had fired, as he believed that Slycord had fired twice. Deputy Durham then immediately advised Deputy Chavez that he had fired one round.

The deputies did not approach Slycord to provide medical aid as Slycord was still holding the gun. Slycord did not respond to further commands to drop the gun, so the deputies held the scene until members of the Sheriff's Office's Special Enforcement Detail responded to approach Slycord. The Special Enforcement Detail deputies approached and handcuffed Slycord and determined that he was deceased. They secured Slycord's gun, a Taurus 9mm handgun. The gun was loaded with one round in the chamber and several rounds in the magazine. One 9mm casing was later recovered by detectives in the flower bed where Slycord shot himself. Slycord's truck was located a short distance away on Elverta Road. A search of the truck revealed a cardboard box for the Taurus 9mm containing the same serial number as the gun recovered from Slycord's right hand.

A round count was later conducted on Deputy Durham's firearm. It was determined that one round was fired.

Numerous civilians were present on the grounds of the shopping center and the school when this incident took place. However, no eyewitnesses were identified who claimed to have witnessed the actual events of the shooting.

Slycord's parents were interviewed. They indicated that their son was suffering from an addiction to methamphetamine and had threatened suicide on multiple occasions.

An autopsy was conducted on Devon Slycord on February 26, 2020, by Forensic Pathologist Katherine Raven of the Sacramento County Coroner's Office. Dr. Raven determined the cause of Slycord's death to be "multiple gunshot wounds."

Slycord had a contact gunshot wound to the right side of his head, exiting on the left. The bullet traveled right to left, front to back and slightly downward.

Slycord also sustained a gunshot wound to the right abdomen. The bullet traveled front to back, slightly upward and slightly right to left. The bullet perforated the right lung and was recovered in the soft tissue of Slycord's back.

The manner of death was listed as "undetermined," as both gunshot wounds were potentially fatal. It could not be determined whether Slycord would have survived if he had sustained only one of the wounds.

A sample of Slycord's femoral blood was tested by the Sacramento County District Attorney's Office Laboratory of Forensic Services. The laboratory determined that Slycord's blood sample contained methamphetamine and THC.

Deputy Durham's in-car camera video was reviewed. The recording begins at approximately 3:11 p.m., facing Starbucks in the south of the WinCo parking lot. There is no audio for the first 30 seconds of the recording.

The patrol vehicle drives westbound through the parking lot, then northbound towards WinCo. The patrol vehicle then turns westbound towards the retaining wall. It stops approximately five seconds later, at 3:12 p.m. Slycord is seen sitting in front of the retaining wall, hunched forward. His face is obscured by his long hair hanging in front of him.

The retaining wall behind Slycord is approximately three feet high. The wall ends approximately six feet to Slycord's left, opening to Skyland Court.

Deputy Durham is heard directing Slycord multiple times to drop the gun. Slycord's head raises up in response to the deputy's commands. Slycord appears to raise his right hand to his temple, and he lowers his head forward again.

Deputy Chavez is heard stating, "We see the subject. Looks like he has a gun in his hands." Deputy Durham continues to direct Slycord to drop the gun. In total, Deputy Durham directs Slycord to drop the gun six times.

Slycord remains in the same position, seated, leaning forward, with his right hand to his temple. Slycord's left hand makes some kind of slight waving movement or gesture, but Slycord makes no other movements and does not audibly speak as Deputy Durham orders him to drop the gun.

The first gunshot is fired at 3:12:31, approximately 21 seconds after Deputy Durham stopped his car. The second gunshot follows almost immediately, less than one second later. As the first shot is fired, Slycord's body suddenly sits more upright, moving backwards and to his right. The second shot quickly follows and Slycord falls back and to his right, landing on his right shoulder. Deputy Chavez is heard broadcasting, "Shots fired, shots fired!" Deputies then prepare to approach Slycord as described above.

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(b); 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(d).)

Here, Deputies Durham, Chavez, and Keegan received a dispatch about a suspicious subject with a gun in a school parking lot. The details of the call stated that at one point the subject had pointed the gun at his own head.

The three deputies immediately drove across the parking lot and located Slycord. Deputy Durham saw Slycord sitting in front of the retaining wall, in a crowded parking lot that adjoins the school, holding a gun to his head.

All three deputies got out of their patrol vehicles and drew their firearms. They had a responsibility to detain Slycord for the potential danger he posed to the students and employees of the school and the occupants of the shopping center. Deputy Durham commanded Slycord to drop the gun but he chose not to do so. Instead, Slycord fired a single round from his gun.

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; California Penal Code section 835a(c)(1)(A).) 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.)

California Penal Code section 835a(2) states that a “peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or another person.”

In driving to the scene, Deputy Durham was concerned about the possibility that the subject was an active shooter on the grounds of the school. He was further concerned about the danger posed to the people in the crowded parking lot.

As the deputies encountered Slycord, Deputy Durham saw that Slycord held a gun to his right temple. This circumstance considered alone might suggest that Slycord only posed a danger to himself. However, Deputy Durham saw that Slycord looked at each deputy individually, as if scanning for targets. He also noticed that it would take only slight movement of Slycord’s hand to be able to fire at Deputy Chavez to Slycord’s left. Despite the presence of three armed Sheriff’s deputies and multiple commands to drop the gun, Slycord remained largely motionless and non-responsive. Slycord did not comply with the deputies’ commands or in any way communicate his intentions in any manner that would resolve the deputies’ fears that Slycord posed an imminent threat to them and others in the school and shopping center.

Deputy Durham indicated that when Slycord fired one round, he did not realize that Slycord had shot himself. Deputy Durham heard the gunshot and saw Slycord’s body sit slightly more upright. He believed that Slycord had fired at Deputy Chavez. Accordingly, Deputy Durham fired one round at Slycord almost immediately after Slycord had fired.

After the shooting, it was determined that Slycord had fired at his own head. However, based on a consideration of all of the evidence and circumstances of this encounter, it was reasonable for Deputy Durham to believe that Slycord posed an imminent threat of death or serious bodily injury to Deputy Chavez. Slycord was armed with a loaded gun and fired it after being repeatedly told to drop it, clearly demonstrating the present ability to seriously harm people from a great distance with little warning or effort. Deputy Durham also believed that Slycord had fired in the direction of his partner, Deputy Chavez. Considering the totality of the circumstances, it was reasonable for Deputy Durham to believe that deadly force was necessary to stop Slycord before he fired again. As such, Deputy Durham’s actions were lawful.

CONCLUSION

Devon Slycord sat holding a gun to his temple in a crowded shopping center adjacent to a school with children in attendance. When armed Sheriff’s deputies confronted him and ordered him to

drop his gun, Slycord ignored them, moved his other hand, and fired one round from his gun. Deputy Durham reasonably believed that Slycord's actions constituted an immediate danger of death or serious bodily injury to another deputy positioned in the direction that Slycord's gun appeared pointed. Therefore, Deputy Durham acted lawfully in utilizing deadly force. Accordingly, we will take no further action in this matter.

Cc: Sacramento County Sheriff's Deputy Andrew Durham
Sacramento County Sheriff's Detective Neal Clanton
Sacramento County Sheriff's Detective Lauren Milton
Kimberly Gin, Sacramento County Coroner's Office
Office of the Inspector General