



# MEMORANDUM

SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

**ANNE MARIE SCHUBERT**  
DISTRICT ATTORNEY

**DATE:** April 29, 2015

**TO:** Tan Thinh  
Supervising Deputy District Attorney  
Special Investigations Unit

**FROM:** Joseph Wagstaff and James Lassen  
Criminal Investigators

**SUBJECT:** Stone Lakes Wildlife Refuge Officer Involved Shooting (SSD report 15-103208)

**INVOLVED PARTIES:**

1. FWL Game Warden Brian Boyd (shooter)
2. SSD Deputy Jeffrey Massagli (non-shooter)
3. SSD Deputy José Lemus (non-shooter)
4. BLM Agent Edward Delmolino (non-shooter)
5. Luis Chavez-Diaz (deceased)

**CALL OUT:**

On April 29, 2015 at approximately 07:26 hours, I (Investigator Wagstaff) received a cell phone text message call at my residence from Sacramento County District Attorney's Office, Bureau of Investigation Chief Jeffrey Schiele regarding an officer involved shooting (OIS) that had occurred at Stone Lakes Wildlife Refuge in Southern Sacramento County. Chief Schiele was not sure if we had been requested to respond at this time.

08:30 hrs. Investigator James Lassen and I were directed to respond to the aforementioned officer involved shooting investigation. We were directed to meet at a command post located in the parking lot of Stone Lakes Wildlife Refuge 1624 Hood Franklin Road west of Interstate 5. Investigators Lassen and I met with Sacramento County Sheriff's Department (SSD) Homicide investigators and were part of an OIS briefing/walk-through that was held at 09:40 hrs. SSD Homicide Sgt. Joseph Miller oversaw the briefing, which was conducted by Homicide Detective Tony Turnbull. Also present at the briefing were SSD Homicide Detectives Dennis Prizmich, Jason Lonteen and Chris Briton. Additionally, State of California, Department of Fish and Wildlife, Professional Standards personnel, Lieut. Matt Gonzalez and Capt. John Winings, State of California, Department of Fish and Wildlife Deputy Director Chief David Besse. The following people briefly spoke about their involvement in the above case: SSD Special Enforcement Detail (SED/SWAT Operators) Deputy Jeffrey Massagli, José Lemus, and

Bureau of Land Management (BLM) Agent Edward Delmolino. Agent Delmolino was co-case agent for the narcotics marijuana grow investigation (MAVMIT-15-043) along with SSD Detective Steve Weinstock.

### **Summary:**

BLM Agent Edward Delmolino, who is a member of Bureau of Land Management, Mountain and Valley Marijuana Investigation Team (MAVMIT), started investigation regarding a marijuana grow on US federal land, at the Stone Lakes Wildlife Refuge (MAVMIT-15-043). BLM Agent Delmolino conducted a flyover of the suspected marijuana grow and confirmed that an active marijuana grow existed at that location. BLM Agent Delmolino along with SSD Detective Weinstock, who also is assigned to MAVMIT, continued their investigation. The investigation ultimately culminated with a law enforcement marijuana eradication operation on the above location that resulted in a fatal OIS between and unidentified armed individual and Game Warden K9 Handler Brian Boyd.

The investigation identified two marijuana grow sites. According to Detective Weinstock, one of the grow sites is what is called a, "seed grow". The "seed grow" is a smaller marijuana grow, planted to ultimately populate the main grow with established marijuana plants. The main marijuana grow, which is the OIS scene, is populated with numerous medium sized marijuana plants. Also according to Detective Weinstock, the two marijuana grow sites were established and maintained by drug trafficking organization (DTO) offenders until the plants are mature and then harvested.

The two marijuana grows in question were located on the west and east side of the Stone Lakes Wildlife Refuge, south of the Hood Franklin Rd., east of the Sacramento River and west of Interstate 5. Previous investigations at these same locations (2013/2014) produced evidence indicating DTO involvement. A previous marijuana eradication operation in 2014 produced evidence that DTO offenders had been armed with firearms (sawed-off shotgun). Investigators located a sawed-off shotgun and a marijuana grow site in 2014.

Based on the historical firearms history for the marijuana grows, a high risk marijuana eradication operation, involving Sacramento County Sheriff's Department (Special Enforcement Detail/SED), State of California, Department of Fish and Wildlife (Game Wardens) and Agents from the US Bureau of Land Management (MAVMIT) was planned. Personnel involved in this operation met at 03:30 hrs. at the Sacramento County Sheriff's Department, Central Station. A pre-operation briefing was conducted and assignments were given out to the different tactical teams. The tactical teams consisted of peace officers from the above named law enforcement agencies. Different tactical teams were assigned different approaches to the various areas identified within the operation. All law enforcement personnel on this operation were armed with their specific agency department firearms and were also wearing specific agency, readily identifiable, "Police" camouflage/tactical gear. The tactical gear they were wearing readily identified members of this operation as peace officers. Game Warden Brian Boyd, Deputy Jeffrey Massagli, Deputy José Lemus and BLM Agent Delmolino were present at this briefing. They became an individual tactical team assigned to one of the

marijuana grow sites. Game Warden Brian Boyd had his K-9 partner Phoebe, a female, Belgian malinois canine.

At approximately 05:45-06:00 hrs. Game Warden/K-9 Handler Brian Boyd, Deputy Jeffrey Massagli, Deputy José Lemus and BLM Agent Delmolino were transported on the Sacramento River by SSD boat to a location west of the main marijuana grow site (West Grow). At that location they disembarked to walk .16 miles to the above-mentioned marijuana grow site. Boyd, Massageli, Lemus and Delmolino operated as a tactical cell/unit. Due to very rough terrain (mud, tulle plants and heavy brush), Game Warden Boyd felt the stealth/covertly approach component to their portion of the operation at the main marijuana grow (West Grow) site may have been compromised.

At approximately 06:05 hrs. Game Warden/K-9 Handler Boyd, who was in a point position for the tactical cell/team, noticed a clearing in the wooded area that the team had been traveling in. Within that clearing were numerous marijuana plants. The tactical team/cell stopped within the wooded area approximate 10 yards from the marijuana grow. During this pause in the advance Game Warden Boyd noticed a male Hispanic adult (MHA) walking toward the tactical cell/team. Boyd noticed that the MHA was armed with a revolver and was pointing it with two hands in a isosceles grip. Boyd announced to the tactical team/cell that he could see a subject armed with a gun. Boyd ordered the MHA several times to drop the gun, but the MHA refused his commands and pointed the revolver at Game Warden Boyd. Game Warden Boyd said he was afraid for his personal safety and that of the other team members. Boyd related he fired 3 to 4 rounds at the MHA. He said that the shots hit the MHA causing the MHA to collapse. Boyd related the team advanced to where the MHA had collapsed, they disarmed the MHA and began first aid procedures for gunshot wounds. The MHA had sustained 3 gunshot wounds. A graze wound to the head, gunshot wound, with no exit, to the upper chest and a gunshot wound to the lower legs. Even though emergency first aid procedures were conducted on the MHA prior to EMS personnel arriving the MHA expired prior to emergency medical personnel arriving on scene. Members of the Consumnes Fire Protection Department ultimately arrived and pronounced the MHA deceased.

No identification for the MHA was located. Sacramento County Sheriff's Department Homicide investigators were contacted and responded to the shooting scene. Sacramento County Sheriff's Department is taking responsibility for the homicide investigation and OIS. The MHA was later identified by the Sacramento County Coroner's Office via fingerprints as, Luis Chavez-Diaz MH 7/21/84, CII A25000772. FBI records indicate that Chavez-Diaz is a Mexican national (see attachment).

At the Sacramento Sheriff's Department Homicide Division Investigator Lassen and I were able to monitor Game Warden/K-9 Handler Boyd's interviewed conducted by the Sacramento Sheriff's Department Homicide Detectives. All the accounts monitored were consistent with those given by the involved officers and the above summary of events.

## Statement

Approximately 1245 hrs. State of California Department of Fish and Wildlife Game Warden/K-9 Handler Brian Boyd was interviewed by SSD Homicide Detectives Jason Lonteen and Dennis Prizmich at SSD Central Investigations, 4510 Orange Grove Ave Sacramento. Boyd was represented by legal counsel, private attorney [REDACTED] attorney-at-law and [REDACTED] Esq. with the Rose Law Corporation, Sacramento office.

Game Warden Boyd said he is assigned to State of California Department of Fish and Wildlife, Marijuana Eradication Team. Boyd said he was assigned to assist in a joint operation with MAVMIT investigators and Sacramento County Sheriff's Department personnel regarding a marijuana grow located in the stone lakes wildlife refuge in southern Sacramento County delta area. He further related that he participated in a preoperation briefing at 0330 hrs. at the Sacramento County Sheriff's Department Central Station. Information at the briefing given to Boyd was that the marijuana grow in question had previous history of weapons and that suspect(s) may be armed. Boyd said he was dressed in his agencies' approved tactical gear and uniform. He also related accompanying him on the operation was his K-9 partner. Boyd mentioned that he had been on numerous clandestine marijuana grows within wildlife areas throughout California and was familiar with his role in this assignment.

Boyd said after the briefing personnel met at various locations to execute the operation. He said his team consisted of personnel from other agencies. Boyd related 3 other members of his team along with himself, were transported, via boat on the Sacramento River, to a demarcation point, on the east side of the Sacramento River. Boyd described this demarcation point as being west of the marijuana grow. Boyd's team was responsible for clearing the west marijuana grow of threats and secure it for eradication. Boyd related that his GPS device told him it was approximately .16 miles from the demarcation point to the targeted marijuana grow. He related that his team would be required to walk walk to the marijuana grow through very rough terrain. Boyd described the terrain as being swampy/muddy brush filled wooded area. Boyd said that he was worried his team may have been compromised due to the noise they made because of the rough terrain.

Boyd related he was in the point position for the tactical team and noticed a clearing in the wooded area that the team had been traveling in. Within that clearing were numerous marijuana plants. Boyd said based on his 16 years as a game warden investigating numerous clandestine marijuana grows in wilderness areas, he recognized the opening in the wooded area as the marijuana grow. Boyd related he signaled to his team to pause so he could assess potential dangers ahead of the team that might be in the marijuana grow. He used this time to allow his K-9 partner to use the animal's instinctual senses of smell and hearing as indication of threats ahead of the team. Boyd said the team was still within the wooded area. Boyd related the marijuana grow was in front of him by about 10 yards. Boyd also said the other members of his team were stopped and staged behind him and to his right.

Game Warden Boyd said he observed from his position within the wooded area a subject about 10 yards ahead of him. He related the subject was a male Hispanic adult (MHA) wearing a plaid shirt. Boyd said he noticed the MHA was armed with a revolver in his right hand. Game Warden Boyd related the MHA was walking toward the tactical team with the revolver out and in front of the MHA's body. Boyd said he observed the MHA draw the revolver up in front of his body and was holding it with both hands in a, "isosceles" type of hand grip. Boyd said the way the MHA was holding the revolver it made him think the MHA was "stalking" the tactical team.

Game Warden Boyd said he looked over to his right briefly and said to the other members of his team, "he's got a gun". Boyd said that after he warned his team of the armed individual and turned back and noticed the MHA was advancing on him holding the revolver in a isosceles grip. Game Warden Boyd related that he shouted to the MHA several times, "drop the Gun! " Boyd told detectives that he has been in numerous situations with armed individuals, but something about this situation was significantly different. Boyd said he was afraid that the MHA was going to shoot either him or his team. Boyd further related he determined he would stop the immediate threat to his fellow officers and himself. Boyd told investigators he sent his K-9 partner on the MHA as he (Boyd) fired 3 to 4 shots at the MHA. Boyd said the MHA was struck and fell to the ground. Boyd related his K-9 partner had attached onto the suspect leg as he and his team closed the distance with the downed suspect. Boyd said he disarmed the MHA, by removing the revolver from the subject's hand. Boyd related he noticed he had hit the MHA in the upper chest area. Boyd said EMS was requested and he began giving the MHA advanced first aid for a gunshot wound. Boyd related the MHA expired while he was attempting to stop the bleeding from the gunshot wound in the MHA's chest.