



MEMORANDUM

SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY

DATE: January 3, 2020
TO: Supervising Deputy District Attorney Charles Gonzalez
FROM: Criminal Investigators Brian Bell and Guy Uyeda
SUBJECT: Officer Involved Shooting (SPD #19-406493)

Suspect: Kevin John Cole, DOB: 04/13/67
Witness: [REDACTED]

Involved Police Officer:
Officer George Martinez #400

All times referred to herein are approximate and report is in summary.

Notification and Briefing:

12/18/2019, at 2057 hours, CI Brian Bell and CI Guy Uyeda were advised of a Sacramento Police Department (SPD) Officer Involved Shooting (OIS) near R Street and 18th Street. We responded to the scene for the briefing.

At approximately 2134 hours, SPD conducted their briefing in the northside breezeway between Safeway and Panda Express southeast of the scene. The briefing consisted of a summary of the incident, witnessing officer statements and multiple officer gathered witness statements. SPD allowed us to conduct a walk through on the outside of the inner scene perimeter.

Summary of Incident:

12/18/19, 1846 hours, SPD Officer Shepard #209 was working a supplemental off duty shift at the Safeway Supermarket located at 1814 19th Street. SPD Officer Shepard #209 was working with two private security guards. One security guard identified as [REDACTED] was working the Safeway Supermarket complex parking lot and attempted to remove a subject with a pit bull from the back side of the building complex near Panda Express. The subject, later identified as Kevin Cole, appeared to be transient and refused to leave. Security guard [REDACTED] requested the assistance of SPD Officer Shepard #209 to remove Cole from the property. SPD Officer Shepard #209 responded from inside of Safeway to the back of the building complex and contacted Cole and his pit bull. The pit bull was on leash and held by Cole. SPD Officer Shepard asked Cole to leave several times and he refused. When Cole did agree to leave SPD Officer Shepard determined he may not be able to care for himself and attempted to detain him. SPD Officer Shepard requested Cole's identification and he refused. SPD Officer Shepard attempted to put Cole in a twist lock

and he resisted and was taken to the ground. SPD Officer Shepard requested cover via the radio as he continued to attempt to gain control of Cole. SPD Officer Shepard advised via the radio that the pit bull was becoming aggressive. SPD Officer Shepard felt the pit bull's mouth on his left hand and eventually unleashed the pit bull in attempt to have the dog leave or move away. SPD Officer's Mason McCann #441 and George Martinez #400 responded to assist SPD Officer Shepard with detaining Cole on the ground. During the struggle to detain Cole the pit bull became aggressive and SPD Officer Martinez #400 fired one shot at the pit bull. The round fired hit the ground and shrapnel from it hit security guard ██████ in his left knee area, Cole in his forehead area, and the pit bull in the left hind leg area. Security guard ██████ ended up on the ground towards the west, Cole was detained without further incident, and the pit bull ran towards the east. Fire and Medical personnel were requested to respond code 3 for the injuries to Security guard ██████ and Cole. Animal Control responded and detained the pit bull. Cole and the security guard ██████ were transported to U.C. Davis Medical Center with non-life-threatening injuries.

Follow-up with civilian witnesses revealed that SPD Officer Shepard was talking with Cole and attempted to detain him. Civilian witnesses reported Cole was uncooperative and the pit bull became aggressive before an officer shot at the dog.

Scene:

The location of the incident occurred along the back wall of Panda Express which is located on the northwest side of the Safeway Supermarket shopping complex. The address for Panda Express is 1802 19th Street and the back wall is located on the east side of 18th Street. Safeway Supermarket is located at 1814 19th Street in a shopping complex that includes several businesses. The back side of the Safeway Supermarket shopping complex is located to the west and on the east side of 18th Street. 18th Street is a two-way residential and commercial street that runs north and south between R Street and S Street.

Statements:

Officer Justin Shepard #209

On 12/19/19, at approximately 0050 hours, SPD Officer Justin Shepard provided a voluntary statement to SPD Detective Trimpey. CI Bell and CI Uyeda monitored the interview via CCTV. Officer Shepard provided the following statement in summary:

I was working a supplemental employment job at the Safeway. I was in full police uniform. The security guard notified me over the private radio of a subject that was refusing to leave. I turned my Body Worn Camera on as I walked out of Safeway. I went over to the side of the Panda Express and the security guard pointed the subject out. He was a M/W in his 40's with a dog and he appeared transient. I explained to him that I was there to have him leave. He was upset, rambling, and using vulgar language. I was trying to be low-key and asked him several times to leave. I could smell alcohol on him and let him know. He also appeared to me that he was high and I think that contributed to his demeanor.

Once he finally stated he was going to leave, he stumbled around and I wasn't sure he was able to care for himself. At that point, I asked him to have a seat and asked for his name. He said, "Fuck you." I told him he was not free to leave and I needed to identify him. He started to walk

away and I told him to turn around as I attempted to detain him in handcuffs. He turned toward me with his dog close to him on a leash. I requested units respond to me Code 3. I pinned him against the wall and we went to the ground. I think the pressure of my camera up against the guy might have turned it off. I was on top of him trying to control him. The dog came up to me and put his mouth on my hand but didn't bite down. I advised units responding of the aggressive pit bull that tried to bite me. I could hear sirens and soon Officers Martinez and McCann arrived. As soon as the officers touched the subject, the dog's demeanor changed. The dog became agitated and barking and was reacting to the subject screaming. I was able to roll the guy on his stomach and unhook the dog from the leash, hoping it would run away.

I heard a gunshot from behind me. It sounded extremely close to me. It surprised me and I saw the round impact the ground next to me. I heard the security guard scream and run. The subject was handcuffed and I left to go check on the security guard. I could see his left leg bleeding and it looked like a round was lodged in his knee. I applied a tourniquet above the injury. I didn't realize the subject I was detaining got hit by the gunshot. I thought he was bleeding from struggling with me.

Officer George Martinez #400

On 12/19/19, at approximately 0206 hours, SPD Officer Martinez provided a voluntary statement to SPD Detective Severi. Present in the room with Officer Martinez was his attorney, [REDACTED] CI Bell and CI Uyeda monitored the interview via CCTV. Officer Martinez carries a department issued Sig Sauer P226 .40 caliber handgun. The handgun carries 12 live rounds in the magazine plus one in the chamber. During the round count, Detectives emptied the weapon and counted one round in the chamber and eleven rounds in the magazine. His two extra magazines had eleven and twelve rounds loaded in them. Officer Martinez provided the following statement in summary:

I was working a supplemental employment job at the Ace of Spades. I was in full police uniform. I heard an officer on the radio ask for assistance. He advised he was trying to arrest someone with an aggressive dog and I heard him say he was by Safeway. I was only a couple of blocks away so I drove over there.

I could see a security guard standing there by the Panda Express. I noticed the officer on top of someone trying to arrest them. When I walked up I could see the dog and he appeared friendly. I am a dog person and think I can judge a friendly dog. I noticed his tail wagging. The guy the officer was trying to arrest was yelling. I grabbed his arm and heard the dog start to growl. The guy was argumentative and non-compliant and I think that led to the dog's aggressive nature. The dog went at the security guard and barked. It looked like a pit bull mix.

Then the dog turned to toward me. He was growling aggressively at me. I stepped back and he closed the gap which was an aggressive move. I thought the dog was going to seriously injure myself or the other officer. I was thinking about how one of our SWAT officers was bitten by a dog and it injured him so bad he had to be medically retired from the Police Department. Fearing for my safety and everyone around me, I fired one round down toward the dog. The dog ran off around the corner of the building. I holstered my weapon and tried to assist handcuffing the subject.