



# MEMORANDUM

SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

ANNE MARIE SCHUBERT  
DISTRICT ATTORNEY

**DATE:** February 3, 2016

**TO:** Deputy District Attorney T. Think

**FROM:** Criminal Investigator Steven Trojanowski #14

**SUBJECT:** Officer involved shooting (SSD 16-31758)  
(Suspect) Justin Steale Prescott (Xref 3418404)  
(Officer) Sergeant Patrick Gallagher (SSD)

## NOTIFICATION

February 2, 2016 at 1921 hours, I received a telephone call from Sacramento County District Attorney Chief Investigator Jeff Schiele. Chief Schiele informed me that our office had received a request to respond to an officer involved shooting. I was told to respond to the Sheriff's Command Post for the incident which was located at 10655 Folsom Blvd Rancho Cordova.

At approximately 2005 hours, I arrived at the command post at 10655 Folsom Blvd. The command post was located on the west side of the Walmart store, and adjacent to the front parking lot at the location.

## BRIEFING

Approximately 2145 hours, a briefing was given regarding the officer involved shooting. Sacramento County Sheriff's Sergeants Patrick Gallagher and Mark Hatzenbuhler were working a two officer overtime assignment in the Folsom Blvd corridor. The sergeants were dispatched to the Walmart store located at 10655 Folsom Blvd. The call that the sergeants were dispatched to involved a white male suspect who had committed a theft from the Walmart store, and when confronted by the store loss prevention officers, pulled out a large carpet knife and threatened suicide. When the sergeants arrived at the Walmart store they observed a male subject that matched the description of the suspect. The suspect was being pursued on foot west of the store by Walmart loss prevention officers. As the sergeants approached, the male subject (later identified as Justin Prescott) took off running on foot from the sergeants in a northerly direction toward the rear of the Safeway store located at 10635 Folsom Blvd. The sergeants drove their marked Rancho Cordova patrol unit to the west side of the Safeway store, where they attempted to contact Prescott. The sergeants pursued Prescott on foot to the rear of the Safeway store, believing he had just committed the theft from Walmart with the use of the knife. The sergeants believed Prescott had most probably committed a robbery with the use of the knife.

The outside temperature was in the low to mid-forties with clear skies, and the lighting was dim to dark, with only ambient light from the wall sconce light fixtures on the Safeway building. Prescott was armed with a five inch curved blade carpet knife, which he placed to his own neck and threatened to kill himself. Both sergeants deployed their tasers, each time striking Prescott with both taser darts. The taser strikes had no effect on Prescott, and he continued to move away from the sergeants toward the north side of the Safeway property. Prescott retained possession of the knife, and he continued to threaten his own life. Sergeant Hatzenbuhler sprayed Prescott in the face with pepper spray ( Oleoresin Capsicum) but it had no visible effect. Prescott ran to the northwest side of the Safeway store where the distance between the Safeway building and the perimeter fence narrowed and the lighting was further diminished. The sergeants were in close proximity to Prescott, and Sergeant Gallagher warned Sergeant Hatzenbuhler that they were too close to Prescott to be safe. Sergeant Gallagher lost sight of Prescott's hands and the knife in the darkness, and at the same moment he lost sight of his partner Sergeant Hatzenbuhler. Fearing that he and his partner were in danger of immediate attack by Prescott, and after verbal commands, two taser deployments and pepper spray failed to stop Prescott, Sergeant Gallagher fired his duty weapon twice and struck Prescott. Prescott fell to the ground and he was handcuffed. Fire and ambulance crews were immediately dispatched to the scene. Prescott was transported by ambulance to U.C. Davis Hospital, where he was pronounced deceased at approximately 1907 hours.

#### WALKTHROUGH

After the briefing, Investigator Williams and I participated in an abbreviated walk-through of the shooting scene. The walk through took place in the west and north sides of the Safeway property. The area was dark and required the use of a flashlight to illuminate the area. We observed taser wires on the ground and there were marker cones present that had been recently placed in the area to identify evidence.

#### INTERVIEWS

Investigator Williams and I responded to the Sacramento County Sheriff's Department Central Investigations Division to monitor the interviews of Sergeants Gallagher and Hatzenbuhler.

I learned Sergeant Hatzenbuhler has been employed as a deputy for approximately 19 years, and is currently a member of the Rancho Cordova Police Department. Sergeant Hatzenbuhler's service weapon is a Glock 17 (9mm) semi-automatic pistol, and it was reported as not having been fired at the scene.

Sergeant Hatzenbuhler stated he and Sergeant Gallagher were dispatched to the Walmart store for a report of a theft in progress. The theft was committed by a male suspect that was armed with a knife. When they arrived at the Walmart store they were directed toward the Safeway store where they observed a Walmart employee chasing a white male adult. The sergeants located Prescott on the west side of Safeway running in a northerly direction. When the sergeants contacted Prescott, he turned and ran south toward the front of the Safeway store where customers were present. Hatzenbuhler observed Prescott with a knife in his hand, holding it near his neck. Hatzenbuhler order Prescott to drop the knife, but he refused. Hatzenbuhler deployed his taser, striking Prescott, but it had no effect. Sergeant Gallagher then deployed his taser, striking Prescott, but it also had no effect. Sergeant Hatzenbuhler sprayed Prescott with pepper

spray, striking him in the face, but it had no effect. Prescott began making cutting motions to his neck with the knife and he began thrusting the knife into his own chest. Prescott ran toward the north side of Safeway, and suddenly Hatzenbuhler realized that Prescott was dangerously close to him and Sergeant Gallagher. Hatzenbuhler turned away from Prescott to get another taser cartridge from his belt, and he heard two gunshots. Hatzenbuhler said he did not see the shooting, but he acknowledged that Sergeant Gallagher fired the two gunshots.

I learned that Sergeant Gallagher has been employed as a deputy for approximately 16 years. Sergeant Gallagher's duty weapon is a Glock 17 (9mm) semi-automatic pistol. A round count was completed on the firearm. The firearm contained one round in the chamber and 15 rounds in the magazine. Sergeant Gallagher had two additional magazines on his duty belt. Both of the magazines contained a full count of 17 rounds each.

Sergeant Gallagher stated that he and Sergeant Hatzenbuhler were dispatched to the Walmart store for a report of a theft in progress, committed by a male suspect that was armed with a knife. When they arrived at the Walmart store they were directed toward the Safeway store, where they observed a Walmart employee chasing a white male adult. The sergeants located Prescott on the west side of Safeway running in a northerly direction. When they drove toward Prescott, Hatzenbuhler exited the patrol vehicle and he confronted Prescott. Gallagher immediately heard Hatzenbuhler ordering Prescott to drop the knife. Hatzenbuhler tased Prescott, but it had no effect. Gallagher then saw Prescott holding a knife to his own throat, and he also ordered Prescott to drop the knife. Gallagher then fired his taser at Prescott, striking him, but it also had no effect. Gallagher said he saw Hatzenbuhler spray Prescott with pepper spray, but it had no visible effect.

Sergeant Gallagher and Hatzenbuhler followed Prescott to the north side of the Safeway property. Gallagher realized that he and Hatzenbuhler were too close to Prescott and he yelled out a warning about the danger. Gallagher said the area between the Safeway building and the perimeter fence was too close, and that the lighting was dim to dark. Gallagher was out of taser cartridges, lost sight of Prescott's hands, the knife, and his partner Sergeant Hatzenbuhler in the darkness. Gallagher said he was in fear for his safety, his partner's safety, and he didn't want Prescott to get away and possibly injure the public that was in the area. Gallagher described Prescott's demeanor as crazy and irrational. Gallagher said he fired his duty weapon twice, striking Prescott. Gallagher said the two officers exhausted all other means at their disposal, and that deadly force was his only remaining option to stop the threat.



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Chief Deputy

Jeff Schiele  
Chief Investigator

**CASE NAME: PRESCOTT, Justin Steele**

**DATE: 2-2-16**

**OFFENSE: OIS**

**AGENCY REPORT NO.: SSD 16-31758**

**REQUESTED BY: Think**

**REPORT BY: J Williams #46**

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## SUMMARY OF FACTS:

On 2-2-16, during the evening hours, Sacramento County Deputy Sheriffs, Sgt. Patrick Gallagher, #35S and Sgt. Mark Hatzenbuhler, #113S responded to a request from Walmart loss prevention personnel, located at 10655 Folsom Blvd., to assist them in apprehending a white male adult, later identified as Justin PRESCOTT, who was seen cutting price tags from merchandise and attempting to take it from the store.

The information the officers received indicated PRESCOTT had taken merchandise and was armed with a knife. He was described as a white male adult, wearing a blue flannel shirt.

Sgt. Gallagher was driving the marked patrol vehicle, Sgt. Hatzenbuhler was the passenger officer. Sgt. Gallagher drove the patrol vehicle to the location Walmart loss prevention personnel indicated they were and an employee waved them down to tell them one of the loss prevention officers was chasing PRESCOTT behind the Safeway Store, at 10635 Folsom Blvd, which was the next business west of Walmart.

On the back, or north side of Safeway, the officers saw a white male adult matching the suspect description given, who first stepped in front of the patrol unit, facing them, then ran along the side of the vehicle toward the rear. Sgt. Hatzenbuhler exited the vehicle and pursued PRESCOTT on foot.

Sgt. Hatzenbuhler repeatedly told PRESCOTT to show his hands and to drop the knife he could see he was holding. PRESCOTT held the knife to his own throat on several occasions as he continued to run and change directions to avoid apprehension.

Sgt. Hatzenbuhler attempted to subdue PRESCOTT by deploying his taser, twice, but found it was ineffective. PRESCOTT continued to avoid the officers and say he would kill himself. Sgt. Hatzenbuhler used OC on PRESCOTT, which also had no effect on him.

Sgt. Gallagher and Sgt. Hatzenbuhler repeatedly ordered PRESCOTT to drop the knife, but he refused. In response to PRESCOTT'S continued threats and physical motions, slashing and stabbing himself with the knife and making verbal threats to officers, Sgt. Gallagher, out of fear for his safety, the safety of Sgt. Hatzenbuhler, and other citizens in the shopping center area, fired two rounds, striking PRESCOTT.



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PRESCOTT fell to the ground and officers requested emergency medical assistance. PRESCOTT was later pronounced dead at the hospital.

2030 Hours Lt. McHenry notified me Criminal Investigator Trojanowski #14 was enroute or at the scene to monitor the officer-involved shooting. I responded to his location at 10655 Folsom Blvd. (See Investigator Trojanowski's report)

At approximately 2130 Hours Investigator Trojanowski and I monitored a brief walk-through behind the Safeway store, directed by SSD Homicide Detective Chris Baker #325.

2317 Hours 2-2-16 Investigator Trojanowski and I monitored the interview by SSD Homicide Detective Camacho #538, of Sgt. Hatzenbuhler. The interview was video taped by Detectives Camacho and Baker. Legal counsel was present in the interview room throughout the interview.

Sgt. Hazenbuhler unholstered his taser to be examined by Detective Camacho and presented his duty belt equipment visually in a full turn around.

Sgt. Hatzenbuhler stated he and Sgt. Gallagher were working an overtime shift from 1600 to 2100 Hours in the shopping center on Folsom Blvd. that included Walmart. During the shift, they received a call for service to assist Walmart personnel. The information they received indicated a white male adult was cutting tags off merchandise with a knife and there was a theft in progress. Loss prevention personnel were attempting to apprehend him outside the business and requested assistance. PRESCOTT was described as a white male adult wearing a blue flanel shirt, armed with a knife.

Sgt. Hatzenbuhler stated Sgt. Gallagher drove westbound in the parking lot and he saw a female Walmart employee running on the north side of the buildings. She pointed towards the Safeway store, west of Walmart. The officers continued westbound and saw a male Walmart employee who pointed towards the west end of the Safeway store.

Sgt. Hatzenbuhler stated Sgt. Gallagher turned the headlights on high beam and they saw a suspect matching the description they had been given. He stated the suspect, later identified as PRESCOTT, ran south bound along the drivers' side of the patrol vehicle toward the back side of it. Sgt. Hatzenbuhler stated he exited the vehicle and pursued him on foot. PRESCOTT tripped and was stumbling, but regained his footing and tried to evade Sgt. Hatzenbuhler.

Sgt. Hatzenbuhler stated he made numerous attempts to apprehend PRESCOTT, as he ran different directions in the alley behind the Safeway, telling him to drop the knife and show his hands. Sgt. Hatzenbuhler stated PRESCOTT refused and made verbal threats and repeatedly held the knife to his own throat. PRESCOTT continued to run, on the west side of Safeway, along a fence line, and



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attempted to run into the front parking lot of Safeway, on the south side of the building, where there were several people.

Sgt. Hatzenbuhler stated Sgt. Gallagher cut PRESCOTT off and Sgt. Hatzenbuhler deployed his taser, which had no effect on PRESCOTT. Sgt. Hatzenbuhler stated he again deployed his taser, again having no effect on PRESCOTT. Sgt. Hatzenbuhler stated he communicated by radio the taser had no effect on PRESCOTT.

Sgt. Hatzenbuhler stated he moved to the south side of PRESCOTT to cut him off from moving into the front side of the business. He attempted to spray him with OC, but was too far away to adequately make any contact. Sgt. Hatzenbuhler stated PRESCOTT held the knife to his own throat and continued to refuse any directives to drop it.

Sgt. Hatzenbuhler stated he moved closer and sprayed OC at PRESCOTT, hitting him in the face, but it had no effect. He stated PRESCOTT started stabbing himself in the chest with the knife. He moved the knife back to his own throat. Hatzenbuhler stated he had holstered his handgun to use the less than lethal means of force and, finding himself too close in proximity to PRESCOTT, moved to his right (east) to create distance between him and PRESCOTT. He stated Sgt. Gallagher was on his left.

Sgt. Hatzenbuhler stated as he turned to his right, away from PRESCOTT, he heard two pops, looked back at PRESCOTT and saw him fall to the ground. He stated he saw Sgt. Gallagher move up to PRESCOTT and handcuff him. Sgt. Hatzenbuhler stated he broadcast a request for Code-3 fire to respond. He stated he did not see Sgt. Gallagher shoot.

The interview was concluded at 0002 Hours.

0010 Hours Investigator Trojanowski and I monitored the interview by Detective Camacho of Sgt. Gallagher. The interview was video taped by Dets. Camacho and Baker. Legal counsel was present in the interview room throughout the interview.

Sgt. Gallagher gave Det. Camacho his hand gun for examination and collection. He took out both magazines and Det. Camacho counted the rounds. There were 17 rounds in each magazine.

Sgt. Gallagher stated he and Sgt. Hatzenbuhler were working, in a patrol vehicle, a shift at the shopping center located on Folsom Blvd., which included Walmart. He stated they received a call from Walmart of a male suspect cutting tags off merchandise inside the store and attempting to steal it. The suspect description was a white male adult wearing a blue flannel shirt.



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Sgt. Gallagher stated while driving towards the north side of the building to assist loss prevention personnel, they were waved down by two loss prevention employees who had been chasing the suspect and indicated they lost him behind the Safeway store, which was west of Walmart.

Sgt. Gallagher stated he saw a white male adult matching the description they were given. The suspect, later identified as Justin PRESCOTT, stepped in front of his vehicle, then ran alongside the vehicle, toward the rear of it. Sgt. Hatzenbuhler exited the patrol vehicle and chased him on the east side of the parking lot behind Safeway.

Sgt. Gallagher stated he made a three-point turn and saw Sgt. Hatzenbuhler unholster his taser, repeatedly ordering PRESCOTT to show his hands. He saw Sgt. Hatzenbuhler deploy his taser, but it had no effect on PRESCOTT whatsoever. He stated he saw PRESCOTT had his fist up to his neck, but could not initially tell what was in his hand.

Sgt. Gallagher stated when PRESCOTT came back towards him, he saw he had a blade in his hand, holding it to his own throat. Sgt. Hatzenbuhler deployed his taser a second time, striking PRESCOTT again, but it had no effect. Sgt. Gallagher stated he saw Sgt. Hatzenbuhler run up to PRESCOTT and use OC, which also had no effect.

Sgt. Gallagher stated he unholstered his firearm and pointed it at PRESCOTT. He stated he recalled thinking he was afraid PRESCOTT would get away from them and move out into the parking lot on the front side of Safeway where he might kill a citizen or take someone hostage. He stated he had run southbound at one point, a few feet into the front parking lot and was aware there were people in that lot.

Sgt. Gallagher stated he saw PRESCOTT stab at himself. He stated PRESCOTT repeatedly told them to leave him alone or he would kill himself. Sgt. Gallagher stated he feared if PRESCOTT was willing to stab himself, he was a danger to both officers and other citizens and may stab any of them.

Sgt. Gallagher stated he saw Sgt. Hatzenbuhler had moved in close to administer the OC spray at PRESCOTT and yelled a warning to him, he was too close. He stated Sgt. Hatzenbuhler moved to his right, out of Sgt. Gallagher's peripheral vision.

Sgt. Gallagher stated the lighting was very low and in the dark he could not see PRESCOTT'S hands any longer until he saw PRESCOTT make slashing motions across his own chest, showing no signs of feeling any pain. He stated he thought PRESCOTT could do the same to him, causing him to be in fear for his own life. He stated PRESCOTT was behaving irrationally and acting crazy.



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Sgt. Gallagher stated he could not see Sgt. Hatzenbuhler on his right. He stated he fired his gun two times and saw PRESCOTT go down onto the ground. Sgt. Gallagher stated he put on gloves and patted PRESCOTT down for weapons.

Sgt. Gallagher stated he believed he had no other force options left, but to use deadly force.

0058 Hours the interview was concluded.