



**Sacramento County  
District Attorney's Office**

ANNE MARIE SCHUBERT  
District Attorney

**MEMORANDUM**

**DATE:** January 20, 2017

**TO:** Supervising Deputy District Attorney Tan Think

**FROM:** Criminal Investigator Keith Burgoon

**SUBJECT:** Officer involved shooting Elk Grove Police case #17-180  
K-9 Officer: Jason Miller #157

**NOTIFICATION**

January 7<sup>th</sup>, 2017 at approximately 2301 hours, I received a phone call from the Sacramento County Operator. Operator advised me there was an officer involved shooting. Operator told me I needed to call Lieutenant McClung at [REDACTED] who was with the Elk Grove Police Department.

At approximately 2302 hours, I called and made contact with Lieutenant McClung. Lieutenant McClung told me her K9 Officer was involved in a shooting which two suspects were shot. Both had non-life threatening injuries and were transported to the Med Center. Lieutenant McClung wanted me to respond to the command post located at the Home Depot (9150 W. Stockton Blvd).

**BRIEFING**

At approximately 2330 hours, I arrived on the scene and made contact with Lieutenant McClung. Lieutenant McClung directed me to Sergeant Elmore. Sergeant Elmore gave me a briefing on the circumstances that were known to him at that time.

At approximately 2036 hours, Elk Grove Police Department received a call that there was a robbery in progress at the Jamba Juice located at 9160 W. Stockton Blvd #160. Two male blacks armed with hand guns. Both suspects took money from the business and fled the scene.

At approximately 2037 hours, K9 Officer Miller arrives in the area driving northbound W. Stockton approaching Dunisch Rd. K9 Officer Miller was in a marked police vehicle and in full uniform.

K9 Officer Miller saw two subjects matching the description. Both subjects were walking on W. Stockton at Dunisch Rd. K9 Officer Miller told them to stop but they started to run. K9 Officer Miller deployed his K9. Both subjects turned and fired their handguns at the K9. K9 was struck by the gun fire and fell to the ground. Suspects then fired at K9 Officer Miller. K9 Officer Miller fired his handgun at the suspects.

Both suspects then ran westbound Dunisch Rd. towards a parked vehicle on the south side of Dunisch Rd. Again both suspects turned towards K9 Officer Miller and fired their handguns at him. Again K9 Officer Miller returned gun fire at the suspects. One of the suspects fell in a ditch on the south side of Dunisch while the other suspect continued to flee westbound Dunisch Rd.

**Suspect #1 (Luther Foster x-ref# 808903)** was taken into custody in the ditch. Foster had two gunshot wounds that were non-life threatening.

**Suspect #2 (Clifton [REDACTED])** gave up after hiding in the perimeter for over an hour. [REDACTED] had one gunshot wound that was non-life threatening.

**Suspect #3 ([REDACTED])** was the driver of the parked car which Foster and [REDACTED] were attempting to flee in. [REDACTED] admitted driving both suspects before the robbery.

K9 Officer Miller fired approximately 30-40 rounds. There appeared to be numerous shell casings from 9mm, 45cal and 380cal at the scene.

Both Luther and [REDACTED] were being treated at Sac Medical Center and were going to be released very soon.

### WALKTHROUGH

After my briefing with Sergeant Elmore, I participated in a walkthrough of the shooting scene. The walkthrough took place at the corner of W. Stockton Blvd and Dunisch Rd. The walkthrough continued westbound Dunisch Rd for approximately 100 yards. The only street light was at the corner of W. Stockton Blvd/Dunisch Rd. The area was dark and it was raining.

The "getaway" vehicle (California plate [REDACTED]) was parked on the south side of Dunisch Rd west of W. Stockton Blvd.

I saw numerous expended bullet casings from the corner of W. Stockton Blvd which continued westbound Dunisch Rd.

### INTERVIEW OF K9 OFFICER MILLER

On January 9<sup>th</sup> 2017, at approximately 1000 hours, I arrived at the Elk Grove Police Department. I monitored the interview of K9 Officer Miller. Elk Grove Detectives Bearor and Robinson conducted the interview.

Officer Miller was hired by the Elk Grove Police Department on May 5<sup>th</sup> 2006. Officer Miller became a K9 handler in 2015. Officer Miller's K9 is named Blue. Blue is 2 years 6 months old and was certified by P.O.S.T on September 11<sup>th</sup> 2016.

K9 Officer Miller is currently assigned to graveyard patrol. K9 Officer Miller is issued a department 9mm handgun. K9 Officer Miller was driving to work in his marked Elk Grove Police vehicle in full uniform with his K9 partner Blue. At approximately 2036 hours, K9 Officer Miller heard dispatch say there was a robbery in progress at the Jamba Juice located at 9160 W. Stockton Blvd. Dispatch advised the two suspects were male blacks armed with a silver gun and a black gun. One suspect had a black jacket and the other suspect had a blue jacket. Both suspects fled the Jamba Juice northbound through the parking lot with unknown amount of money.

K9 Officer Miller was already in the area and was driving northbound W. Stockton Blvd from the Jamba Juice. K9 Officer Miller saw two suspects matching the description at the corner of W. Stockton Blvd and Dunisch Rd. Both suspect started to walk westbound Dunisch Rd. K9 Officer Miller turned on his take down light on both suspects which abled him to have a clear view of them. K9 Officer Miller saw the male black with the black jacket (Foster) have a black handgun in his right hand, then moved the handgun into his left hand. K9 Officer Miller told the suspect to drop the gun. The suspect did not follow his command. K9 Officer Miller gave his K9 warning, then the suspects turned and started to run westbound Dunisch Rd. K9 Officer Miller sent K9 Blue after the armed suspects. K9 Officer Miller saw the suspect in the black Jacket (Foster) turn towards K9 Blue and fired shots at his K9 Blue. K9 Officer Miller saw K9 Blue fall to ground believing Blue was shot. K9 Officer Miller then saw that he was being shot at by both suspects. K9 Officer Miller was focused more on the suspect with the black jacket (Foster). K9 Officer Miller retuned gun fired and fired all of his rounds and had to make a reload. Both suspects continued to flee westbound Dunisch Rd running side by side. K9 Officer Miller noticed a vehicle parked on the south side of Dunisch Rd. which appeared that both suspects wanted to get inside of that parked vehicle. The suspects then ran just past the parked vehicle. Both suspects turned towards K9 Officer Miller and both extended their arms. K9 Officer Miller saw the muzzle flash and was being shot at again. K9 Officer Miller believed both suspects were shooting at him. K9 Officer Miller returned gun fire and shot all of his rounds and had to reload again. At that time an Elk Grove police vehicle arrived on scene which K9 Officer Miler was able to use as cover. Suspect in the black jacket (Foster) dove into a ditch on the south side of Dunisch Rd. K9 Officer Miller believed the suspect was using this as a point of advantage. K9 Officer Miller took cover behind the door of the police vehicle again fearing for his life shot at the suspect in the ditch. K9 Officer Miller heard another officer (later identified as Sergeant Moore) at the scene say that he saw the suspect throw the gun into the field. K9 Officer Miller then approached the suspect and took him into custody. It appeared the suspect had a gunshot wound in the arm and leg.

Suspect [REDACTED] in the blue jacket continued running westbound Dunisch Rd and at that time was not located. A perimeter was set up in the area. A short time later the suspect [REDACTED] came out walking on W. Stockton and wanted to give himself up. It appeared the suspect had a gunshot wound in his leg.

K9 Officer Miller advised other officers to check the parked vehicle on Dunisch Rd. which might be involved. Officers located suspect [REDACTED] who was the driver of the vehicle which was involved as the "getaway" vehicle.

Injured K9 Blue was driven to Bradshaw Vet for emergency medical treatment. K9 Blue was shot twice in the left front leg.

### **ADDITIONAL INFORMATION**

While at the Elk Grove Police Department, I was informed by Sergeant Elmore that two handguns were located at the scene (field located south of Dunisch Rd). The 380 handgun appeared to have jammed and was not able to discharge any rounds. The 45 handgun was empty and all rounds were discharged. Only 45cal and 9mm expended bullet casings were located at the scene.

Both suspects that were shot were released from the hospital that night.

All three suspects gave statements and admitted to committing five other armed robberies.

ELK GROVE POLICE DEPARTMENT K-9 BLU

