



MEMORANDUM

SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

ANNE MARIE SCHUBERT

DISTRICT ATTORNEY

DATE: November 9, 2017

TO: Supervising Deputy District Attorney Tan Think

FROM: Criminal Investigators Butah Uppal and Keith Burgoon

SUBJECT: Officer Involved Shooting (SSD# 17-367521)
Wallace Benjamin JORY (Xref 3803102)

Notification:

11/02/2017, 1015 hours, Thursday: While at the District Attorney's Office, I overheard radio traffic from Sacramento County Sheriff's Department of an officer involved shooting.

At approximately 1030 hours Criminal Investigator Burgoon informed me we had officially been called to respond to the scene of the shooting at President Avenue and Senate Avenue in North Highlands. We responded and arrived at approximately 1120 hours.

Briefing:

Shortly after our arrival the deputies conducted a short briefing to update the detectives on scene. Several deputies spoke of contacting witnesses, and Deputy Robert Tracy shared his knowledge of what happened at the scene.

As Deputy Tracy was arriving he activated his overhead patrol lights and the in car camera. Deputy Tracy arrived in the area of the scene from the north, waiting for his back up deputy to arrive. Deputy Avila arrived from the south at the intersection of President Avenue and Senate Avenue.

Deputy Tracy observed a white male subject at the intersection, (President and Senate), waving his arms around. He could see a knife in one of his hands (unknown which hand). As Deputy Avila was approaching, the male walked north and into the driveway of [REDACTED] President Avenue. The suspect returned to the street with a pitchfork in his hand and walked at a fast pace toward

Deputy Avila. The suspect was given commands to drop the pitchfork. He refused and continued toward Deputy Avila. Deputy Avila fired one round and the suspect dropped to the ground.

Responding deputies attempted life saving measures, but the suspect died at the scene from his injury.

After the briefing we were escorted by Detectives to Deputy Tracy's vehicle, (which was facing south, Patrol Unit #122531), on President Avenue. We viewed the in car camera. The video was consistent with Deputy Tracy's statement.

Scene walk through:

This occurred as we were walking to Deputy Tracy's patrol unit. We observed Deputy Avila's patrol unit facing north parked on President Avenue, in front of the suspect's residence [REDACTED] President Avenue). The suspect was laying on the ground face up approximately 10-15 feet in front, (north), of Deputy Avila's unit. The knife and the pitchfork were lying next to the suspect on the east side.

CI Burgoon and I then responded to the SSD Central Intelligence Division (CID), where interviews were conducted.

Involved Deputies:

Avila, Louie R. – shooting deputy

Tracy, Robert K. – witness deputy

SSD Detectives assigned:

Det. Nathan Traxler

Det. Kimberly Mojica

Interview of Deputy Robert Tracy:

11/02/2017, Thursday:

NOTE: We were not informed the interview of Deputy Tracy had begun. We opened the camera view on the computer monitor and were only able to observe approximately the last 5-10 minutes. The following is what we were able to view:

As Deputy Tracy arrived on scene he observed the suspect with a green handle knife with a short blade. He watched the suspect walk to the garage and return with a pitchfork. He described the pitchfork as having 3 or 4 metal tines. He stated it looked like a hayfork to him.

The suspect was holding it by the handle to the rear and the forks facing Deputy Avila.

Deputy Tracy was afraid for Deputy Avila, but could not get a clear shot of the suspect. He would have shot the suspect in the back if Deputy Avila was not in the “Crosshairs.”

Interview of [REDACTED] DOB: [REDACTED]

The following is just a portion of the partial interview we observed of the suspects wife; [REDACTED]

1351 hours: She and her husband had recently been evicted from [REDACTED] President Drive. This morning her husband had left their apartment about 0830 hours. She believed he went back to the President Drive address to retrieve some items which were left behind.

She further related her husband was having some mental issues, however he had not yet received his medication.

Last night her husband was upset. He told one of her friends he was going to get killed by the cops.

Interview of Deputy Louie Avila:

11/02/2017, 1431 hours, Thursday:

Both detectives and Deputy Avila’s representative from the Mastagni Law Firm were present during this interview.

Hire date – April 20, 2003

Work assignment: North Division dayshift with Friday Saturday and Sunday off

Last weapons qualification – August 2017

Issued weapon – Glock 17 Generation 4, 9mm, with no modifications to the handgun.

Round count: one round in the chamber of the gun and 16 rounds in the magazine

First Magazine from belt – 17 rounds

Second Magazine from belt – 17 rounds

Deputy Avila responded to President Avenue and Senate Avenue as a backup regarding a welfare check. As he approached on Senate Avenue he observed the white male suspect in the intersection waving his arms around. The suspect then walked up the driveway ([REDACTED] President Avenue). He thought the suspect was going into the house.

Deputy Avila exited his patrol unit on the driver’s side. The suspect opened the garage door and started to go into the garage. At this point Deputy Avila thought he might have to use his TASER on the suspect.

The suspect quickly started walking back down the driveway with a pitchfork in his hands. Deputy Avila drew his handgun from his holster. The suspect came on the street towards Deputy Avila. Deputy Avila gave the suspect several commands to drop the pitchfork. The commands were ineffective.

The suspect continued to move toward him, closing the distance between them, with the pitchfork in his hands. Fearing for his safety, Deputy Avila fired one round at the suspect and the suspect went down.

He approached the suspect and observed a hole in the suspect's shirt. Deputy Tracy advised him to handcuff the suspect. When he rolled the suspect over he observed a large amount of blood on his back.

The suspect appeared to be breathing. Lifesaving efforts were made, but the suspect died at the scene.

Deputy Avila described the pitchfork as being approximately 5' in total length, with 4 prongs.

Deputy Avila did not want to go hands on because the suspect could stab him with the pitchfork.

He described the suspect as holding the handle of the pitchfork with his right hand and his left hand was up by the forks. The suspect was moving towards him at a fast pace. Deputy Avila described the suspect having a look of intent on his face. Deputy Avila gave the suspect two (2) commands to drop the weapon.

At the conclusion of the interview, Deputy Avila stated the suspect moved in one continuous motion as he went to the garage, picked up the pitchfork and then moving towards him.