



MEMORANDUM

SACRAMENTO COUNTY DISTRICT ATTORNEY'S OFFICE

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY

DATE: August 22, 2016

TO: Supervising Deputy District Attorney Tan Think

FROM: Criminal Investigators Butah Uppal and Frank Ubois

SUBJECT: Officer Involved Shooting (CHPD#16-06733)
Michael Edward McClurg (Xref: 193533)

Criminal Investigator B. Uppal:

Notification:

08/09/2016, 0240 hours, Tuesday: I received a phone call from Assistant Chief Sullivan informing me of an officer involved shooting with the Citrus Heights Police Department, (CHPD). He provided me with the investigating detectives name and number requesting I contact her and proceed with the call out. (CHPD Detective Bayer-Evans).

I contacted Detective Bayer-Evans. She provided me with the preliminary information. She told me they had already conducted one round count and then they would be interviewing the witness officers.

I contacted Criminal Investigator Frank Ubois and informed him of the circumstances and requested we meet at the CHPD.

Briefing:

08/09/2016, 0420 hours, Tuesday: Criminal Investigator Ubois and I arrived at CHPD. We met with Detective Bayer-Evans, and we learned the following:

The OIS began at 2151 hours on Monday evening August 8, 2016. CHPD received information regarding the suspect, (McClurg), burning his ex-wife's vehicles in Rancho Cordova.

At 2201 hours an actual BOLO was received from Rancho Cordova regarding the arson incident.

At 2212 hours CHPD received information the suspect was at his residence in their jurisdiction, which is 7309 Grenola Lane.

The SSD air unit and CHP air unit assisted in video of the OIS.

Officers responded to the scene and encountered the suspect in his driveway at the garage, when the OIS occurred.

The suspect had poured liquid in the driveway leading to the house and set a canister in the center. This required EOD and Fire to respond to render the scene safe prior to moving forward with their investigation.

Three witness officer interviews were conducted. None of these three officer's fired their weapons, nor did they see the OIS.

Officers involved in the shooting:

Officer Daniel Boehle

Officer Kyle Shoberg

Officer Nicholas Oldwin

CHPD Detectives assigned:

Det. Sgt. Rich Wheaton

Det. Bayer-Evans

Scene observation:

08/09/2016, 0610 hours, Tuesday: Criminal Investigator Ubois and I met with the CHPD investigators at the scene of the OIS.

The Sacramento County Crime Lab was on scene assisting CHPD. The suspect was lying face up in the driveway. His feet were at the edge of the garage door opening and his head towards the street. His arms were out stretched from his body. The suspect's gun (replica) was lying on the ground near the suspect's left hand. The gun had a hole in the center, where it appears a bullet entered and exited the gun.

There was a canister in the center of the driveway as well as a propane tank just inside the garage door to the west. After the initial viewing of the scene Criminal Investigator Ubois and I left.

08/10/2016, 2000 hours, Wednesday: Criminal Investigator Ubois and I met with CHPD detectives at their office. We viewed the videos from the air units which were on scene, and we

later walked through the scene with the Detectives, Officers involved in the shooting and their respective attorneys.

We viewed the air unit videos and were also able to hear their radio traffic. The suspect poured something onto the driveway in front of the residence. He then places a canister in the center of the driveway. He retreats into the garage on the west side. You can see he has something in his right hand (stated as a gun from air unit), and a possible cell phone with the screen illuminated in his left hand.

It was difficult to see the officers in this video because of the large trees surrounding the residence'. You see the suspect exit the garage, pointing his right hand, (with gun), towards the officers. The officers open fire and the suspect retreats. Moments later the suspect again exits the garage and points his right hand, (with gun), at the officers. Subsequently the suspects goes down in the driveway. You see the suspect's right hand reaching over his body to the left side where the gun was laying. The suspect is shot again. Both his arms go straight up in the air and drop to either side of his body.

Scene walkthrough with Officers:

08/10/2016, approximately 2145 hours, Wednesday: We met with the officers and their attorneys, as well as CHPD investigators at the scene. The officers showed us where they were initially standing when they engaged with the suspect. They also showed us the locations they moved up to when they re-engaged the suspect. These locations were later verified in the officers recorded interview.

Interviews:

All interviews with the involved officers were conducted at the Citrus Heights Police Department at 6315 Fountain Square Drive. The interviews were conducted on the afternoon and evening of Thursday August 11, 2016 by Detective Bayer-Evans and Detective Sergeant Wheaton.

Officer Kyle Shoberg #304 – Citrus Heights PD - 10 years total experience including 4 years with Grass Valley PD

Weapon department issued Smith and Wesson M&P 223 (15) rounds

8/11/16 approx. 1332 hours: I am not sure what the time was but, I remember that I saw a BOLO on the computer (Be on the lookout) from Rancho Cordova PD related to a suspect wanted

for an arson and attempted murder of his ex-wife. The BOLO indicated that SSD air (STAR) was going to check the suspect's residence on Grenola Way for his vehicle. At the time I was headed to assist a couple of other patrol officers who were looking for an unrelated vehicle from an LPR (License Plate Reader) hit. I saw STAR flying near the Grenola address with its spotlight on. I looked away as I continued to the other officers, then realized STAR was gone. I assumed they had no luck locating the suspect's vehicle. A few minutes went by, and then I heard the radio broadcast with information coming in from the suspect's brother about the suspect being at the Grenola address. The information coming in via radio indicated that the suspect was at the Grenola address, that that he was intoxicated, that he had burned his ex-wife's house and cars, that he was acting erratic, that he smelled of fire, that he had a pistol and a bomb, that the police were coming and that the brother had better leave the residence. The brother was calling from a neighbor's house. STAR got back to the scene before we did and provided us with information about the suspect's actions. STAR described how there was an unknown canister in the driveway, and that the suspect was pouring a trail of liquid in the driveway leading up into the house. STAR also advised that they could see the suspect holding a handgun and a cell phone in his hands.

Several other officers and I rolled to the call. Although we agreed to meet and brief near the scene, we all ended up at Grenola Way and Baranga Drive at the same time. Based upon what information I had up to that point, I felt like we were dealing with an active shooter type situation. Although he hadn't shot anyone that we knew of, based upon what we knew happened in Rancho Cordova, and his behavior at his residence, I felt like he was an imminent threat to anyone in the house and the neighborhood. Dan (Officer Dan Boehle) and I headed up the street in the darkness toward the house. It was pitch black with no street lights and very little light coming from the nearby homes. I was worried the suspect would see us approach before we would see him. We approached from the west toward the suspect's house, hugging the front of the neighboring houses on the south side of the street as we walked in. I briefly saw the light from his cell phone as we approached. Once Dan and I got to the house just west of the suspects house, we realized we couldn't see the suspect at all. I remember that we asked for STAR to illuminate the suspect, but their spotlight failed. Dan and I decided to illuminate the suspect, or at least where we thought he was based on the information we had from STAR, and then deal with the threat as dictated by the situation. Dan and I illuminated the area in front of his garage with the tactical lights on our rifles. Immediately, I saw the suspect standing at the entrance to the garage with his arm up and a pistol pointed at us. I felt that my life and that of Dan was immediately in danger, I fired two rounds at the suspect as Dan also fired upon him. We never had the opportunity to give him commands because he had his pistol pointed at us as soon as we illuminated him. Some of Dan's brass hit me

in the head causing me to duck out of the way. When I came back up, I no longer saw the suspect. STAR advised that he was still in the garage by the entrance, as his arm came back out with the pistol pointed at us. I fired about three more rounds at his arm, and the wall where he was standing and thought to myself, "He isn't giving up." He disappeared again. STAR advised that he still wasn't down. Dan and I agreed to move forward to a tree closer to the suspect's house to afford us better cover, and a better angle to confront the suspect. Once at that position I could smell the odor of gasoline and was again worried about the possibility of an explosion. STAR advised us he was kneeling near a truck in the garage with the gun in hand. I thought to myself, "He is taking cover to shoot us. This guy is trying to kill us." Then he raised the gun in our direction and I fired at him four or five more times. He fell to the ground and dropped the gun on the ground to his left. As he was down on his back, he leaned over to his left reaching toward the gun. I fired about three more rounds at him again because I was afraid he was going to get his hands on the gun and shoot us. Dan fired at him as well. I stopped shooting once he stopped reaching for the gun. We moved to cover behind the van, but we never approached him after that due to the concern about the canisters, explosives and the possibility of a booby trap.

Officer Daniel Boehle #373 – Citrus Heights PD - 12 years total experience including 7 years with Galt PD and 3 years with Daly City PD

Weapon department issued Smith and Wesson M&P 223 (10) rounds

8/11/16 approx. 1640 hours: At approx. 2200 hours, I saw a BOLO call from SSD that involved an arson that occurred in Rancho Cordova. The arson was to two cars and a house. The information in the BOLO indicated the suspect vehicle description, registered owner information and that STAR was headed to check the owners address for the suspect vehicle. I headed in the general direction to check for the vehicle. About fifteen minutes later, a call came in from the suspect's brother advising that the suspect was back at home, that he had a gun in his waistband, he was intoxicated, he smelled of smoke, and told him that he had burned the ex's cars and house. He also advised that the police were coming and that the brother should leave the house.

Several other units and I responded to the area. We all arrived at about the same time at Grenola and Baranga. About the time we got there, STAR advised that the suspect was pouring a trail of fluid in the driveway leading up to the house. I was afraid he was going to blow up the house. We had no idea who was still inside, or how many people were in the neighboring homes.

There were additional officers on scene who approached the house with us. STAR advised that we needed to move in. Kyle (Officer Kyle Shoberg) was able to see the suspect up ahead, and yelled at me to get out of the street. I joined Kyle as we approached the suspect's house moving down the dark street. Other officers were on the opposite side of the street headed to the house as well. It was extremely dark, and we only knew the suspect was at the garage entrance because of the airship. We stopped at the east side of the neighboring garage at [REDACTED] Grenola Way and staged. Kyle saw the garage door was open at the suspect's house, but there was no light coming from inside. Someone asked for STAR to use their spotlight and light up the house, but their light wasn't working. We illuminated the garage with our tactical lights and the suspect appeared with the gun pointed at us. I was afraid he was going to shoot one or both of us. I fired two or three rounds from my rifle at him. He retreated back into the garage. Kyle also fired at the suspect. He actually fired another volley at the suspect, when I didn't even see him. I don't know what he saw at that moment, but he saw something. We realized we had no good cover, and no good angle to confront the suspect again. We decided to move forward to the tree near the sidewalk. As soon as we got there we illuminated the area with our tactical lights again. Kyle was on my right. I saw the suspect kneeling behind a truck in the garage. I yelled for him to drop the gun twice. He stood up and came toward us with the gun pointed at us. I fired several rounds him, I felt I had to shoot. I don't know if he shot or not, but I thought that was what he was trying to do. He went down on the driveway. As he was down, Kyle told me the gun was still next to him, on his left side. The suspect reached for the gun again, and I fired additional rounds at him until he stopped. I don't think the suspect ever said a word to us. Several officers and I moved to a position behind a van in the street to cover him. The consensus was that we would not approach due to the threat from the tanks and possible explosives. I didn't realize that Nick (Officer Nick Oldwin) was with me until after the gunfire stopped when Sgt. Garing asked us who fired and where we were when we fired. Kyle, Nick and I returned to our cars while additional officers took care of the scene.

Officer Nicholas Oldwin #356 – Citrus Heights PD - 2 1/2 years total experience, 1+ as a reserve for CHPD and 1 ½ full time sworn for CHPD

Weapon department issued Smith and Wesson M&P 223 (2) rounds

8/11/16 approx. 1850 hours: This incident started with a BOLO from SSD that I saw on the computer about an arson suspect from Rancho Cordova. A few minutes later, I heard Officers Stadleman and Boehle get dispatched to the call with new information coming in from the suspect's brother. I had myself added to the call to assist because I knew several of the other patrol

units were tied up on calls. The information we had was that the suspect was back at home with a gun in his waistband. An airship was overhead and advised that they saw him pouring a liquid in the driveway leading up to the house and told us to expedite. I was worried he was going to commit another arson. We had no idea who else was in the house.

Several officers met up on Grenola and Baranga. I joined Kyle and Dan (Officers Kyle Shoberg and Dan Boehle) as we approached the suspect's residence from our cars which were west of his house. STAR advised that we needed to expedite our response because he was pouring liquid in a trail from the driveway into the garage. I was concerned he was going to light it up and cause an explosion. I was also worried that at any minute he would see us approaching and would fire upon us before we could see him. I recall, that STAR's light wasn't working which didn't help our situation.

Kyle and Dan were just ahead of me and on my right as we stopped at the garage of the neighboring house. I was covering the left because it was so dark and we couldn't really see where he was. All of a sudden one of their lights came on from their rifles and the suspect popped out from the garage entrance. I saw that he had a cellular telephone in one hand that silhouetted his face and the handgun in the other hand. He punched the gun out toward us, I fired twice and he ducked away. I was terrified for my partners and me. I thought he was going to shoot one of us. I thought it's going to be him or me, I got angry. I realized I needed a better angle to engage him, and moved back and to my left behind a tree. As I did, I heard STAR relay that he had moved back into the garage. I don't know if he was hit by any of our rounds. I don't know if he fired any shots at us. I covered Kyle and Dan as they moved up to another tree. I heard Dan yelling, "drop the gun." I started to move up toward them when more rounds were fired. Kyle yelled that he was still reaching for the gun. From where I was, I couldn't even see the suspect because of the hedge that was between the two yards. There were a few more shots, and then the threat was over. I gave Sgt. Garing a public safety statement.