



Sacramento County District Attorney's Office

THIEN HO
District Attorney

DATE: April 17, 2023

TO: Sheriff Jim Cooper
Sacramento County Sheriff's Office
4500 Auburn Boulevard
Sacramento, CA 95841

Chief Kathy Lester
Sacramento Police Department
5770 Freeport Boulevard
Sacramento, CA 95822

FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case Nos. SSO-21-18130
SPD-21-17348

Shooting Officers: SSO Dep. Jesse Brucker #512
SSO Dep. Alfonso Ceja #936
SSO Dep. Andrew Durham #195
SSO Dep. Adam Gibson #729
SSO Dep. Kenneth Lloyd #833
SSO Dep. Brandon Lunardi #849
SSO Dep. Nicholas Manitta #14
SSO Dep. Allen Miller #779
SSO Dep. Hunter Pahl #31
SSO Dep. Jacob Wilhelm #435
SSO Dep. Joseph Zalec #284

Persons Shot: Robert Stephen Calderon (DOB 11/21/1974)
SSO Dep. Jesse Brucker #512
SSO Dep. Adam Gibson #729
SSO K-9 Riley (Dog)

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above-referenced officer-involved shooting. We address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Robert Stephen Calderon. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other documentary items. These items include Sacramento Police Department Report 21-17348, Sacramento County Sheriff's Office Report 21-18130, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, Sacramento County District Attorney's Office Laboratory of Forensic Services reports, and the Sacramento County Coroner's Final Reports of Investigation.

FACTUAL SUMMARY

At approximately 10:07 p.m. on January 21, 2021, Sacramento County Sheriff's Office (SSO) Deputies Andrew Erhart and Hunter Pahl were on patrol in a marked SSO patrol vehicle, traveling westbound on Arden Way. Both deputies were dressed in full uniform, with SSO patches visible on their sleeves and SSO badges affixed to their chest. Both officers were armed with a Glock 17 9mm handgun.¹

Deputy Pahl noticed what appeared to be a gold Chevrolet Suburban SUV stopped in an alley section of the parking lot of a closed business located at 2901 Arden Way.² The Suburban was running, the taillights were on as if the brakes were being applied, and the Suburban was in the alley to the side of the business.

For the previous several weeks, Deputies Erhart and Paul had been searching for a gold-colored Chevrolet Tahoe or Chevrolet Suburban, as there had been several reports of commercial burglaries in the area involving a gold Chevrolet Tahoe. The vehicle had been captured on video and described by witnesses as involved in multiple area burglaries. Deputies Erhart and Pahl had taken a report themselves involving one such commercial burglary at that address two weeks prior.³

Deputies Erhart and Pahl decided to investigate the Suburban as a suspicious occupied vehicle due to its location in the alleyway next to the closed business and because it matched the description of a vehicle connected to several recent commercial burglaries in the immediate area. The deputies pulled into the parking lot and parked behind the Suburban. They illuminated the SUV with their patrol vehicle's bright white light. Deputy Pahl ran a records check on the vehicle while Deputy Erhart approached the SUV to contact the driver.

The driver of the SUV handed Deputy Erhart his driver's license, identifying himself as Robert Stephen Calderon. Deputy Erhart asked Calderon if he was on parole or probation. Calderon replied that he was not.

¹ Unless otherwise noted, all officers described in this letter were dressed in full SSO uniform, with visible department sleeve patches and badge, and armed with Glock 17 9mm handguns.

² In the light of day, the color of the Suburban is visibly a metallic silver or gray.

³ The Chevrolet Tahoe and Chevrolet Suburban are both full-size SUVs. They appear nearly identical in shape and design. The primary difference between the two models is the Suburban is slightly longer and has a longer rear cargo area.

Deputy Pahl ran a records check on Calderon's identification. The check verified that Calderon was on active parole.

The deputies re-approached the SUV. Deputy Erhart told Calderon they confirmed he was on parole. They asked Calderon to step out of the SUV as the deputies planned to conduct a parole search of the vehicle.

Calderon did not step out of the car as directed. Deputy Pahl saw Calderon move his hands towards his waistband. This led Deputy Pahl to conclude that Calderon was likely armed with a handgun.

Calderon put the SUV in gear and accelerated quickly away from the deputies. The deputies got into their patrol vehicle and followed with their overhead lights and siren activated. At approximately 10:10 p.m., Deputy Pahl broadcast over the radio that their traffic stop turned into a pursuit. He further announced the subject was "digging around in his waistband" before fleeing from the location of the stop.

Multiple additional Sheriff deputies heard this broadcast and responded to assist with the pursuit, including K-9 Deputy Jesse Brucker, Deputy Nicholas Manitta, Deputy Brandon Lunardi, Deputy Cayman Gleason, Deputy Andrew Durham, Deputy Kenneth Lloyd, Deputy Allen Miller, Deputy Jacob Wilhelm, Deputy Alfonso Ceja, Deputy Joseph Zalec, Deputy Adam Oliver, Deputy Ryan Thrall, Deputy Christopher Jackson, Deputy Jonathan Parker, K-9 Deputy Adam Gibson, and Sergeant Jason Abbott.

Deputies Erhart and Pahl followed Calderon out of the parking lot, through a residential neighborhood, and then along several major thoroughfares. Additional units joined the chase as they caught up to the pursuit. Deputy Wilhelm joined the chase on Cottage Way, followed by Deputies Zalec, Thrall, and Parker. Deputies Ceja and Jackson joined the pursuit on Fair Oaks Boulevard. Calderon continued onto Howe Avenue, Hurley Way, and Ethan Way.

Calderon drove at speeds estimated at 75-80 mph as he tried to escape the officers. During the pursuit, Calderon ran through three stop signs and six red lights without stopping.

At approximately 10:12 p.m., Calderon appeared to strike a curb while making a right-hand turn. The right rear tire of the SUV went flat and began to fail. By approximately 10:14 p.m., the right rear tire of the SUV completely separated from the wheel. Calderon slowed and appeared to have trouble controlling the steering but refused to yield. Calderon continued to drive with the right rear rim striking the pavement, sending sparks flying behind him.

Deputies Erhart and Pahl requested permission from their Sergeant to perform a Pursuit Intervention Technique, or "PIT" maneuver, to stop the SUV. The Sergeant approved their request. At approximately 10:18 p.m., Deputy Erhart performed the "PIT" maneuver, sending the SUV spinning off into a parking lot on Ethan Way. However, Calderon regained control of the SUV, drove through the parking lot, and headed back on Ethan Way in the opposite direction.

Calderon drove the SUV onto the grounds of Cal Expo, with four patrol vehicles in pursuit, and additional patrol vehicles following behind. Deputies Manitta, Durham, and Miller joined the pursuit as Calderon entered Cal Expo and continued towards the Cal Expo horse racing track. At approximately 10:20 p.m., Calderon attempted to drive through a chain-link fence. This caused the SUV to crash to a halt. Calderon attempted to rev his engine to free the SUV, without success. The SUV was stuck.

The pursuit lasted approximately 10 minutes.

Additional patrol units arrived after the crash, including Deputies Brucker, Lunardi, Gleason, Lloyd, Oliver, Gibson, and Sergeant Abbott. With Calderon's SUV stuck in the fence, approximately 18 patrol vehicles fanned out from right to left behind the Suburban. Deputies on scene immediately prepared to perform a felony stop.

Multiple deputies on scene directed Calderon to surrender and exit the SUV with his hands up. Sergeant Abbott pulled forward and used his vehicle's loudspeaker to command Calderon to surrender. Calderon did not comply and did not respond to these commands.

Deputies were unable to see clearly inside the SUV as the windows had dark window tinting applied. Several deputies, including Deputies Manitta, Durham, Wilhelm, and Matthew Tam began firing less-lethal beanbag shotgun rounds at the Suburban's rear and side windows to try to break out the glass so they could see inside. However, due to the window tinting material, the beanbags merely punched holes in some of the windows, rather than shattering and breaking the glass. Deputy Parker attempted to break out the glass by firing less lethal 40mm rubber bullets, also with limited success. The rear window remained largely intact, with several holes from the beanbags.

As deputies were deploying the less-lethal rounds, Deputy Miller moved forward and took a position near the Suburban's rear passenger side window. The window had broken sufficiently that Deputy Miller could see clearly into the SUV. Deputy Miller heard Calderon yelling, "You're going to have to kill me! I'm going to kill you guys! I'm going to shoot you!"⁴

Deputy Durham saw Calderon searching inside of a backpack. He believed Calderon was reaching for a gun.

With Calderon unwilling to surrender after use of the less-lethal rounds, a second less-lethal alternative was attempted. A plan was formulated to send a K9 into the SUV. There were two K9 units on scene in Deputies Brucker and Gibson. Deputies Brucker and Gibson conferred and decided that Deputy Brucker's K9, Riley, would be used.

However, there was no clear access point for Riley to enter the SUV. The glass was damaged, but still presented a barrier to entry. A shield team was assembled. The shield team approached the back window of the SUV. Deputy Erhart used his expandable ASP baton to break and clear

⁴ Although several other deputies described hearing Calderon angrily yelling inside the SUV, none were able to discern what was being said.

out the glass from the rear window so Riley could safely enter. The shield team then retreated away from the window.

Deputy Gibson loudly directed Calderon to surrender, or the dog would be sent in after him. Calderon again ignored the command.

At approximately 10:25 p.m., Deputy Brucker sent K9 Riley towards the SUV. The dog ran around the vehicle and jumped onto the hood but could not find a way inside. The Sheriff's Office helicopter noticed that Calderon was revving his engine to try and free the SUV from the fence, so they advised Deputy Brucker to recall the dog. Deputy Brucker called to Riley and the dog returned to the rear of the SUV.

At approximately 10:26 p.m., Deputy Brucker physically lifted K9 Riley up and put K9 Riley through the rear window of the SUV. K9 Riley moved forward through the cabin of the Suburban and approached Calderon's right side. Deputy Brucker then drew his firearm and began to approach the Suburban's driver's side door, intending to pull Calderon from the vehicle while Calderon was occupied by the dog. Deputy Gleason was immediately behind Deputy Brucker holding a shield. Deputy Gibson also approached the driver's side door to assist, armed with his firearm.

K9 Riley reached Calderon and started to bite Calderon's right arm. Deputy Parker heard one gunshot from inside the car and instantly saw K9 Riley release his bite and collapse. Deputy Tam and Deputy Zalec also heard the shot from inside the SUV and saw K9 Riley move away to the side. They assumed Riley had been struck.

Deputy Jesse Brucker

Deputy Brucker opened the driver's side door. He could see Calderon had a gun in his hand near his waist. He then saw Calderon start shooting at him as soon as he opened the door. Deputy Brucker and Calderon were only approximately 2-3 feet apart.

Deputy Brucker started to return fire at Calderon. As he did so, Deputy Brucker felt an impact to his chest. He then felt another impact to his right hand and dropped his gun.

Deputy Gleason, who was directly behind Deputy Brucker, pushed Deputy Brucker to the ground and attempted to cover Deputy Brucker with his shield outside the driver's side door as gunfire erupted all around them.

A round count established that Deputy Brucker fired 9 shots during this exchange.

Deputy Alfonso Ceja

Deputy Ceja was standing near other deputies by the rear passenger side of the Suburban when Deputy Brucker and other deputies approached the driver's side door. Deputy Ceja heard gunfire coming from inside the SUV, then heard additional shots coming out the passenger side windows. He could see holes appearing in the passenger side windows caused by the gunfire.

Deputy Ceja believed that Calderon was shooting at him and at his fellow officers. He was in fear for his life, so he began to return fire towards Calderon.

A round count established that Deputy Ceja fired 5 shots from his handgun.

Deputy Andrew Durham

After K9 Riley entered the Suburban and Deputy Brucker began moving towards the driver's side door, Deputy Durham was positioned near the passenger side front door of the SUV. He saw a muzzle flash and heard the sound of a gunshot coming from inside the SUV. He then heard the sound of several more rapidly fired gunshots.

Deputy Durham believed Calderon was actively trying to kill his fellow officers. He began firing at Calderon to subdue the threat. Deputy Durham fired all 18 rounds from his handgun. He performed an emergency reload with a fresh magazine. He did not fire from the second magazine.

Deputy Adam Gibson

Deputy Gibson approached the driver's side door of the Suburban behind Deputy Brucker and Deputy Gleason's shield. As Deputy Brucker opened the door and Calderon began firing from inside the SUV, Deputy Gibson immediately fell backwards to the ground.

As gunfire sounded all around the SUV, Deputy Gibson stood up, grabbed his neck, and retreated backwards away from the SUV. Deputy Gibson walked a short distance and fell back to the ground.

A round count was later performed of Deputy Gibson's handgun. It noted the absence of one round, indicating that Deputy Gibson may have fired one round in the exchange before being struck in the neck.

Deputy Kenneth Lloyd

Deputy Lloyd approached the driver's side door of the Suburban with Deputies Brucker, Gleason, and Gibson. As Deputy Brucker opened the door, Deputy Lloyd saw Calderon firing at Deputy Brucker. Deputy Lloyd backed up and heard approximately two more shots fired from inside the SUV.

Deputy Lloyd drew his firearm and returned fire at Calderon until tripping to the ground. He did not fire his gun after falling to the ground as he heard another deputy yelling, "Cease fire!"

A round count established that Deputy Lloyd fired 15 rounds from his handgun.

Deputy Brandon Lunardi

As Deputy Brucker began moving towards the driver's side door with Deputy Gleason and Deputy Gibson, Deputy Lunardi also began moving towards the driver's side door behind a second shield held by Deputy Erhart.

Deputy Lunardi saw Deputy Brucker pull on the handle of the driver's side door. He heard three gunshots being fired by Calderon and saw Deputy Brucker fall to the ground. He could see that Deputy Brucker was injured.

Deputy Lunardi heard gunshots being fired around him. He saw through the rear window of the Suburban that Calderon was still moving. Deputy Lunardi knew Deputy Brucker had already been shot and feared Calderon would shoot more of his fellow officers.

Deputy Lunardi fired 5 rounds through the rear window of the Suburban until he could see Calderon was no longer moving. He stopped shooting and loudly directed other officers to cease fire.

Deputy Nicholas Manitta

Deputy Manitta was moving forward towards the driver's side door of the Suburban with a shield behind other deputies after the K9 entered the back window.

As Deputy Brucker opened the driver's side door, Deputy Manitta heard gunfire coming from inside the SUV. He felt a sharp pain in his left ear and saw Deputies Gleason and Brucker go to the ground and take cover behind Deputy Gleason's shield.

Deputy Manitta could see a bone protruding from Deputy Brucker's hand and continued to hear gunshots coming from inside the car.

Deputy Manitta believed he had a clear shot at Calderon through the open driver's side door.

Deputy Manitta fired 18 rounds at Calderon during the exchange. He stopped firing and saw that Calderon was no longer moving.

Deputy Allen Miller

Deputy Miller armed himself with a rifle as other deputies were deploying less-lethal shotguns to break out the windows of the SUV. He moved forward and took a position by the passenger side door of Deputy Pahl's patrol vehicle, to the rear and slightly to the passenger side of the Suburban.

Deputy Miller could see inside the SUV through the broken rear passenger side window. Deputy Pahl told him he believed that Calderon had a gun. As described above, he heard Calderon threatening to shoot the deputies.

As the K9 entered the rear of the Suburban, Deputy Miller saw the muzzle flash of a gun from inside the SUV and heard the "pop" of a gunshot.

Deputy Miller feared for his own life and the lives of the deputies approaching the driver's side door. Deputy Miller began firing his rifle at Calderon as Calderon was actively firing at the deputies approaching the driver's side door. Deputy Miller fired his rifle until he heard Deputy Lunardi yelling for deputies to cease fire.

Deputy Miller fired 30 rounds from his rifle during the exchange.

Deputy Hunter Pahl

Deputy Pahl was by the driver's side door of his patrol vehicle next to Deputy Miller to the rear of the Suburban when K9 Riley was sent in the back window of the SUV. Deputy Pahl believed Calderon had a gun as he saw Calderon reaching around inside the cabin of the Suburban.

Deputy Pahl saw the contact team approach the driver's side door of the SUV as K9 Riley went in the back window and climbed over the rear seats to bite Calderon. Deputy Pahl saw a muzzle flash of a gunshot coming from inside the Suburban.

Deputy Pahl feared for the lives of the deputies being shot at by Calderon and opened fire to try to protect them.

Deputy Pahl fired 18 rounds from his handgun during the incident.

Deputy Jacob Wilhelm

Deputy Wilhelm was parked directly behind Calderon's SUV. As the K9 went in the rear window and the contact team approached the driver's side door, Deputy Wilhelm heard the sound of gunfire. He broadcast, "Shots fired!" over the radio. Deputy Wilhelm then realized that Calderon was shooting and trying to kill his partners. Deputy Wilhelm fired one round from his handgun through the rear window.

Deputy Joseph Zalec

Deputy Zalec armed himself with a rifle as other deputies were deploying the less-lethal rounds to break the windows of the SUV.

Deputy Zalec believed Calderon was armed, based on what he heard broadcast over the radio and seeing Calderon reaching into a dark-colored bag inside the Suburban.

Deputy Zalec saw K9 Riley enter the back window of the SUV and bite Calderon on his right side. The contact team began moving forward, and Deputy Zalec moved forward to assist them. Deputy Zalec heard a gunshot from inside the SUV. He believed that Calderon had shot the dog.

Deputy Zalec then heard multiple additional shots fired from inside the SUV towards the contact team. Deputy Zalec began firing his AR-15 rifle at Calderon to try to protect the deputies approaching Calderon's door.

Deputy Zalec fired 13-15 rounds from his rifle during the exchange.⁵

Post-Shooting

Immediately after Deputy Lunardi yelled to cease fire, deputies moved forward, grabbed Deputy Brucker, and dragged him backwards to safety behind the SUV. They walked Deputy Brucker to a patrol vehicle and drove him to Kaiser Permanente Sacramento Medical Center (Kaiser).

Deputy Brucker was struck by three bullets. One shot struck Deputy Brucker in the chest above his heart. That shot was stopped by his tactical vest.⁶ A second shot struck Deputy Brucker above the tactical vest and fractured two bones, requiring surgery. The bullet is still lodged inside Deputy Brucker's body. The third shot struck Deputy Brucker's hand, shattering several bones.

As Deputy Gibson approached the driver's side door behind Deputies Brucker and Gleason, he fell backwards after Calderon opened fire. Deputy Gibson grabbed his neck, stood up and walked a short distance away before falling back to the ground. Deputies placed Deputy Gibson in a patrol vehicle and drove him to Kaiser, where he was pronounced deceased at approximately 10:40 p.m. by Dr. Charles Kurlinkus.

Deputy Wilhelm and Deputy Ryan Thrall approached Calderon while other deputies attended to the injured officers. Calderon was not responsive and still seated in the driver's seat of the Suburban. K9 Riley was motionless to his right. Calderon's gun, a Glock 27 .40 caliber semi-automatic handgun, was located on the center console, partially resting in a cup holder. The gun had a 15-round capacity. Six hollow-point cartridges were still loaded in the magazine with one additional round in the chamber.

Deputies Wilhelm and Thrall removed Calderon from the driver's seat and placed him in handcuffs. Sergeant Abbot directed them to attempt to render medical aid. They rolled Calderon onto his back, lifted his shirt, and noted multiple bullet holes in Calderon's chest. No further resuscitation efforts were made.

Dr. Jason Tovar, a certified Pathologist with the Sacramento County Coroner's Office (Coroner's Office), responded to the scene and briefly examined Calderon and K9 Riley. Dr. Tovar noted approximately eight gunshot wounds to the K9. K9 Riley was deceased.

Calderon's hands were tested for the presence of gunshot residue. The samples taken from Calderon's hands were tested by the Sacramento County District Attorney Laboratory of Forensic Services (Crime Lab). Particles characteristic of gunshot residue were identified on Calderon's right hand.

⁵ Deputy Zalec was uncertain how many rounds were loaded in his rifle prior to the incident. Accordingly, the most accurate estimate is he fired 13-15 rounds.

⁶ A detective later examined Deputy Brucker's tactical vest. A deformed bullet was lodged inside of it.

An autopsy was later performed by the Coroner's Office. Pathologist Dr. Irfan Chaudhry determined that Calderon was shot twice in the head, ten times in the torso, once in the pelvis, and four times in his arms and legs.

Dr. Chaudhry concluded that the cause of Calderon's death was a gunshot wound to the head. In examining the two gunshot wounds to Calderon's head, Dr. Chaudhry noted that the wound to Calderon's right temple displayed small red abrasions that suggested stippling. Stippling is considered a feature of a contact wound.

Further, the projectile recovered during the autopsy from the injury to Calderon's right temple was later tested by the Crime Lab. The ballistics testing of this projectile showed it to be a nominal .40 caliber bullet. A .40 caliber bullet could be fired from Calderon's Glock .40 caliber handgun recovered from the center console of his vehicle.

In considering the contact nature of the wound and the caliber of the bullet recovered from Calderon's head, Dr. Chaudhry determined that this wound was self-inflicted by Calderon. Accordingly, Dr. Chaudhry classified the manner of Calderon's death to be suicide.

A sample of Calderon's femoral blood taken during the autopsy was tested by the Crime Lab and found to contain methamphetamine and amphetamine.

The scene was processed by Crime Scene Investigators with the Sacramento Police Department (SPD). Sample swabs were taken of blood stains found on the Glock 27 .40 caliber pistol located on the center console of the SUV. The sample swabs were tested for DNA by the Crime Lab. The results of the testing concluded that Calderon was included as a potential contributor to the DNA obtained from the blood samples taken from the gun.

Three spent .40 caliber casings were located inside the cabin of the Suburban. A fourth spent .40 caliber casing was located on the step bar immediately outside the driver's side door.

A small glass smoking pipe containing white residue was located near Calderon in the SUV.

A small baggie containing a white substance was found in Calderon's right front pants pocket. The substance was tested by the Crime Lab and determined to be methamphetamine, with a weight of 0.29 grams.

SPD detectives interviewed Calderon's mother. She told detectives that Calderon talked to her about suicide and stated he did not want to live anymore. Calderon also told her he was not willing to go back to prison and made statements indicating he wanted to be killed by the police.

In-car camera (ICC) videos were reviewed from each of the patrol vehicles that responded to this incident, as well as aerial video taken by the SSO STAR helicopter. The videos depict events as described above. It should be noted that although several of the patrol vehicles were parked immediately behind Calderon's SUV, the lighting conditions and rear angle prevent a clear view of Calderon's actions inside the Suburban.⁷

⁷ The SSO deputies in this incident were not equipped with body-worn cameras.

The patrol vehicle of Deputy Ryan Thrall was parked directly behind the Suburban. Immediately after K9 Riley enters through the Suburban's rear window, a bright flash is seen in the video in the area directly adjacent to Calderon's right shoulder. This appears to be the muzzle flash of Calderon shooting K9 Riley immediately before Calderon started shooting at Deputy Brucker.

A round count and examination of casings recovered at the scene established that the eleven deputies who fired their weapons discharged a total of 132-134 rounds. A review of the ICC video shows that these rounds were discharged over a period of approximately 10 seconds after Calderon opened fire on the K9 and Deputy Brucker.

A full autopsy of Deputy Gibson was performed by Dr. Tovar. Dr. Tovar concluded that Deputy Gibson died due to a single gunshot wound to his neck. A .40 caliber bullet was recovered from Deputy Gibson's neck during the autopsy.

The Crime Lab evaluated the .40 caliber bullet recovered from Deputy Gibson's neck. The Crime Lab determined that the Glock 27 is a firearm that could fire that caliber of ammunition. The Crime Lab further concluded that the .40 caliber bullet recovered from Deputy Gibson's neck was not consistent with the 9mm or rifle ammunition fired by the deputies present during the incident.

LEGAL ANALYSIS

An officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11; *Graham v. Connor* (1989) 490 U.S. 386, 396; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; California Penal Code section 835a(b); CALCRIM 2670.) The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; CALCRIM 2670, 2671, 2672.) Officers do not need to retreat or desist their efforts if the person they are arresting or detaining resists or threatens resistance; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (California Penal Code section 835a(d).)

Here, Deputies Erhart and Pahl had sufficient reasonable suspicion to temporarily detain Calderon. The deputies noticed Calderon's gold Chevrolet Suburban stopped in an alley between a business and a wall after 10 p.m., when the businesses in the shopping center were closed. The brake lights of the Suburban were activated, as if the brake pedal was being engaged, indicating the car was in drive rather than in park.

For several weeks, Deputies Erhart and Pahl had been searching for a gold Chevrolet Tahoe or Suburban that was described by witnesses and seen on video as involved in several recent commercial burglaries in the area. The Chevrolet Tahoe and Suburban are nearly identical in design. Deputies Erhart and Paul had taken one such commercial burglary report themselves at

that very address just two weeks prior. Given these specific articulable facts, a temporary detention of the driver of the Suburban to investigate further was justified. (See *Terry v. Ohio* (1968) 392 U.S. 1.)

Deputy Erhart approached Calderon, asked for his identification, and asked if Calderon was on probation or parole. Calderon provided his driver's license and denied being on probation or parole.

Deputy Pahl ran a records check and determined that Calderon was on active parole. The deputies asked Calderon to step out of the SUV so that they could conduct a parole search. Calderon had a duty to allow himself to be detained and to comply with the request by the deputies to perform a parole search. However, Calderon did not comply. He placed his SUV into drive and accelerated away from Deputies Erhart and Paul.

A chase lasting approximately 10 minutes ensued. Calderon ran through stop signs and red lights without stopping. Calderon reached speeds of 75-80 m.p.h. before striking a curb and causing his right rear tire to fail. After the tire came completely off the wheel, Calderon continued to drive on the rim, causing sparks to fly continuously out behind him. Calderon refused to yield even after deputies performed a "PIT" maneuver and spun Calderon into a parking lot.

Calderon continued to attempt to evade the pursuing officers. He drove onto the grounds of Cal Expo. He ultimately attempted to drive through a chain link fence. The Suburban got stuck in the fence and Calderon could no longer flee.

Eighteen patrol units from the SSO were behind Calderon in the parking lot by the Cal Expo racetrack. They commanded Calderon to surrender with his hands up. Still, he refused. Calderon was heard by one deputy threatening to shoot the officers present.

Deputies on scene deployed less-lethal bean bag shotgun rounds to break out the windows of the Suburban. Calderon refused to surrender. Deputies threatened to send the K9 in after Calderon. Calderon still refused to surrender.

Deputy Brucker then lifted K9 Riley and placed him through the rear window of the Suburban. Riley moved forward and began to bite Calderon on his right side. Multiple deputies, led by Deputy Brucker, moved forward towards the Suburban's driver's side door to attempt to take Calderon into custody.

Calderon fired a gunshot at K9 Riley. As Deputy Brucker opened the driver's side door, Calderon opened fire at Deputy Brucker from approximately 2-3 feet away. He struck Deputy Brucker three times, twice in the chest and once in the hand. Calderon also struck Deputy Adam Gibson in the neck.

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury.

(CALCRIM 505, 507, 3470; California Penal Code section 835a(c)(1)(A).) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the officer may employ all force reasonably believed necessary. (CALCRIM 3470.) The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. (*Graham v. Connor* (1989) 490 U.S. 386.)

Here, Calderon presented a potential imminent danger of death or great bodily injury when it appeared that he shot K9 Riley. He then presented an imminent actual danger when he began firing at deputies. He shot Deputy Brucker three times. Deputy Brucker's life was saved solely by the tactical vest that stopped the bullet Calderon fired from close range into Deputy Brucker's chest. Lastly, one of Calderon's shots struck Deputy Adam Gibson in the neck, killing him.

Deputies in this incident provided Calderon multiple opportunities to resolve this incident peacefully. Calderon refused them all. He led deputies on a reckless high-speed chase. He refused to surrender after his vehicle became disabled, even as he was surrounded by 18 patrol vehicles. He angrily threatened to shoot at the deputies, and he followed through on that threat. Given these circumstances, it was reasonable for the deputies present here to utilize deadly force until the very real danger presented by Calderon's actions was subdued. Although a large number of rounds were fired by law enforcement, between 132-134 rounds for 11 officers over a span of approximately 10 seconds, the shooting concluded once Calderon stopped moving and Deputy Lunardi directed deputies to cease firing.

CONCLUSION

Each of the 11 deputies who utilized lethal force in this incident did so as Calderon was in the process of murdering one SSO deputy and seriously injuring another. Under these circumstances, their decisions to utilize lethal force were justified.

Accordingly, we will take no further action in this matter.

Cc: Detective Micaela Cruz, Sacramento Police Department
Lieutenant Joseph Bailey, Sacramento Police Department
Deputy Jesse Brucker, Sacramento County Sheriff's Office
Deputy Alfonso Ceja, Sacramento County Sheriff's Office
Deputy Andrew Durham, Sacramento County Sheriff's Office
Deputy Kenneth Lloyd, Sacramento County Sheriff's Office
Deputy Brandon Lunardi, Sacramento County Sheriff's Office
Deputy Nicholas Manitta, Sacramento County Sheriff's Office
Deputy Allen Miller, Sacramento County Sheriff's Office
Deputy Hunter Pahl, Sacramento County Sheriff's Office

Deputy Jacob Wilhelm, Sacramento County Sheriff's Office
Deputy Joseph Zalec, Sacramento County Sheriff's Office
Kimberly Gin, Sacramento County Coroner's Office
Francine Tournour, Sacramento County Office of Inspector General