



Sacramento County District Attorney's Office

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MEMORANDUM

DATE: November 9, 2018

TO: Police Chief Daniel Hahn
Sacramento Police Department
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting Case No. 2017-257643
Shooting Officers: Timothy Martin #222
Victor Wolfe #816
Tobias Williams #687
Joshua Dobson #3001
Richard Hitchcock #3053
Person Shot: Eric Arnold (DOB 2/9/79)

The District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Eric Arnold. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento Police Department report number 2017-257643, dispatch logs and recordings, scene photographs and video recordings, in-car camera videos, witness interview recordings, surveillance videos, and supplemental reports and photographs; Sacramento County District Attorney's Office Laboratory of Forensic Services firearm, blood alcohol, and toxicology reports; and Sacramento County Coroner's Report.

FACTUAL SUMMARY

On September 1, 2017, the Sacramento Fire Department received a call for service regarding a carbon monoxide alarm at a residence on Janrick Avenue. As fire personnel arrived, they noticed a dark colored pickup truck leaving the driveway. The person driving the truck drove in reverse until it reached the end of the street. It then turned around and sped away. As a result, fire personnel requested assistance from the Sacramento Police Department as they believed the

circumstances were suspicious. Officers entered the residence and discovered two deceased females in a bathtub. Both had been shot and their bodies were still smoking from having been set on fire. Officers learned one of the victims was the registered owner of a black Chevrolet S-10 pickup truck. As a result of the investigation, an arrest warrant was issued for Eric Arnold, the boyfriend of one of the victims. Arnold was considered to be armed and dangerous because a firearm was used in the commission of the murders.

Prior to commencing their shift on September 7, 2017, Officers Victor Wolfe and Tobias Williams were briefed on the circumstances surrounding the double murder. These officers were partnered on patrol in south Sacramento. They were in full uniform and in a fully marked Ford Explorer patrol vehicle. At approximately 10:40 a.m., Officer Wolfe received notification the victim's truck was driving southbound on Watt Avenue near Highway 50. The officers drove southbound on Power Inn Road assuming the vehicle might ultimately travel west on either Fruitridge Road or Elder Creek Road.

When the officers arrived at the intersection of Fruitridge Road and Power Inn Road, they observed the truck stopped at the traffic light at Fruitridge Road headed west. Officer Wolfe maneuvered his patrol car to get behind the truck. The officers confirmed the license plate and notified dispatch. Given the nature of the arrest warrant and the possibility Arnold was driving the truck, Officers Wolfe and Williams waited for additional units to respond before they attempted to stop the vehicle. Officer Timothy Martin and Sergeants Richard Hitchcock and Joshua Dobson joined the pursuit while in uniform and each in their fully marked patrol vehicle. These responding officers later told detectives they were aware the vehicle was connected to a homicide.

The driver of the Chevrolet S-10, later identified as Arnold, turned northbound on Franklin Boulevard and then eastbound onto 27th Avenue. The officers followed and activated their overhead lights. Arnold stopped the truck near the south shoulder of 27th Avenue. Officer Wolfe positioned his vehicle approximately 25 feet behind Arnold. Sergeant Dobson parked to the left of Wolfe. The patrol cars blocked both directions of travel on 27th Avenue. Officer Martin and Sergeant Hitchcock parked behind the other officers. Arnold remained in the truck.

Officer Wolfe opened his driver's side door, drew his firearm, and positioned himself between the open door and the vehicle. Officer Williams was between his open passenger door and the vehicle with his firearm drawn. Officer Martin situated himself behind the driver's side door to the left of Officer Wolfe with his firearm drawn. Immediately to their left, Sergeant Dobson exited his vehicle and stood near the left edge of his open driver's side door with his K-9 partner Ace to his right. Sergeant Hitchcock posted himself next to Sergeant Dobson and his dog, behind the open driver's side door, with his firearm drawn.

Officer Martin shouted commands at Arnold to shut off the engine, keep his hands up, and drop the keys out of the window. Arnold dropped the keys out of the driver's window. He then exited the truck and immediately fired multiple shots toward the officers. Fearing for their safety and the safety of others, the officers immediately returned gunshots and continued firing until Arnold fell to the ground. Medical assistance was requested, and the Sacramento Fire Department responded. Upon their arrival, Arnold was pronounced deceased.

A review of in-car camera videos and a residential surveillance video showed the circumstances occurred rapidly, with approximately sixteen seconds elapsing from the time Officer Martin gave his first command to the commencement of the shooting. The video clearly shows Arnold throw the keys out the driver's window. Six seconds later, he exited the truck and immediately began firing his gun. Arnold took three direct strides toward the officers and fired six rounds at Officer Wolfe's vehicle. The officers immediately returned gunshots until Arnold fell to the ground. Arnold hit the pavement in a supine position and dropped his gun.

A round count of each of the officer's firearm determined Officer Martin fired four rounds, Sergeant Hitchcock fired twelve rounds, Officer Wolfe fired two rounds, Officer Williams fired eight rounds, and Sergeant Dobson fired ten rounds.

Officers recovered Arnold's firearm, a .380 caliber Hi-Point semi-automatic pistol. Six .380 caliber expended shell casings were recovered and an additional round was in the chamber. Arnold shot Officer Martin in the left side of his abdomen, which was protected by his body armor, and Officer Wolfe in the left thigh. Both officers were treated for their non-life-threatening injuries at U.C. Davis Medical Center.

Arnold's cause of death was determined to be multiple gunshot wounds. The coroner's report indicated Arnold was shot fourteen times; once in the neck, three times in the abdomen, once in the right hip, once in the right buttock, three times in the right thigh, three times in the left thigh, and twice in the right arm. The Sacramento County Crime Lab analyzed Arnold's blood which revealed the presence of amphetamines, benzodiazepines, cocaine metabolite, carisoprodol, methadone, methamphetamine, opiates, oxycodone, and zolpidem.

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; 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.)

In the present matter, based on the description and license plate of the truck, the officers had reasonable cause to stop the vehicle to identify the driver, having cause to believe it was being driven by Arnold, for whom there was an arrest warrant. Officer Martin clearly and succinctly gave Arnold instructions. Arnold heard the instructions, as evidenced by him dropping the keys out the driver's window. The officers were lawfully performing their duties and Arnold had a duty to permit himself to be arrested. Arnold failed to do so when he exited the truck and immediately shot at the officers.

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.) 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, the officers were acutely aware of the danger Arnold posed. They knew the truck was related to a double homicide and waited for a sufficient number of law enforcement personnel to arrive to safely effectuate the detention. The moment Arnold exited the truck he began firing at the officers. The danger Arnold posed was immediate and when he started shooting he created an obvious risk of death or great bodily injury to Officer Wolfe, Officer Martin, Officer Williams, Sergeant Dobson and Sergeant Hitchcock. Arnold was able to fire six shots, striking two officers. The officers used reasonable and necessary deadly force when they returned fire after Arnold shot at them.

CONCLUSION

Given the circumstances, the officers were justified in shooting Arnold to defend themselves. We find the shootings to be lawful and will take no further action in this matter.

cc: Sacramento Police Department Detective Jeff Griggs #670
Sacramento Police Department Officer Timothy Martin #222
Sacramento Police Department Officer Victor Wolfe #816
Sacramento Police Department Officer Tobias Williams #687
Sacramento Police Department Sergeant Joshua Dobson #3001
Sacramento Police Department Sergeant Richard Hitchcock #3053
Kimberly Gin, Sacramento County Coroner
Francine Tournour, Office of Public Safety Accountability