



Sacramento County District Attorney's Office

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Chief Willie Godinez
California Highway Patrol – Valley Division
2555 1st Avenue
Sacramento, CA 95818

Chief of Police Samuel D. Somers, Jr.
Sacramento Police Department
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

RE: Officer-Involved Shooting: SPD Case No. 15-35226
 Shooting Officer: CHP Dan Geers #18575
 Shooting Officer: CHP Don Troutman #17663
 Person Shot: Joey Britt (DOB: 12/3/1993)

Dear Chief Godinez and Chief Somers,

The District Attorney's Office has completed its independent investigation and 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 Joey Britt. 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 included the following: California Highway Patrol South Sacramento Pursuit Report F0205-252-15; Sacramento Police Department Report 15-35226; California Highway Patrol Valley Division MAIT Report VL-005-15; Sacramento County Sheriff's Department Report 2015-0031970; California Highway Patrol Stockton Area Report 201500309; Stockton Police Traffic Collision Report 15-4840 and California Highway Patrol Stockton Vehicle Report S52-265-2015; video and audio recordings; dispatch calls; witness interviews; photographs; diagrams; Sacramento County District Attorney Laboratory of Forensic Services reports; and evidence logs.

FACTUAL SUMMARY

On February 7, 2015, at approximately 11:45 a.m., a white Ford F550 truck was reported stolen from a jobsite in Stockton. The truck had a long hose dangling from the bed. The theft was reported to the California Highway Patrol (CHP).

At approximately 12:11 p.m., CHP Officer Dustin Jorrick received information related to this stolen vehicle traveling northbound on Interstate 5 (I-5) in the area of March Lane. Dispatch also informed Officer Jorrick that the stolen truck had been in a hit and run collision in the City of Stockton.

Officer Jorrick responded to the area of Hammer Lane in Stockton on I-5 and observed the stolen truck. He activated his patrol car lights and sirens and pursued the suspect, who continued to flee northbound on I-5. The stolen truck was travelling between 60-70 miles per hour. CHP Officer Dan Sepulveda deployed a spike strip still in the area of Stockton near Eight Mile Road. The suspect vehicle swerved left, missed the spike strip, and continued north on I-5.

As the pursuit reached Turner Road, the suspect vehicle began following an uninvolved green truck at an unsafe distance. The suspect vehicle drove into the median in an effort to pass the green truck. After entering the median, the suspect vehicle began swerving out of control and eventually came to rest blocking both northbound lanes. The vehicle was on its wheels and facing the wrong way (southbound). Officer Jorrick moved his patrol car up to the suspect vehicle and observed there was only one person inside the car. Officer Jorrick got out of his patrol car and initiated a felony stop. He yelled at the driver several times, repeatedly telling him to put up his hands. The suspect driver ignored Officer Jorrick, reversed the stolen truck, turned it around, and again fled northbound on I-5.

As the stolen vehicle passed Hood Franklin Road in the County of Sacramento heading north on I-5, officers continued to pursue the suspect. CHP Sergeant Matthew Burgess responded, requested air support, and advised CHP Officer Matthew Blankinship to take over the pursuit. Officer Blankinship had his patrol vehicle's emergency lights and sirens activated. He became the primary unit. Sergeant Burgess also entered the pursuit. CHP successfully deployed a spike strip, which caused the vehicle to lose a tire, but it continued to flee. While traveling northbound on I-5, the stolen vehicle reached 70 miles per hour and used both lanes of traffic.

CHP officers attempted the Pursuit Intervention Technique (PIT) on I-5 north of Fruitridge Road, but were unsuccessful. The stolen vehicle continued to travel north through downtown Sacramento and towards the Richards Boulevard exit.

CHP Officer Dan Geers ran a traffic break from westbound I Street to northbound I-5 and ended up in front of the pursuit. As the stolen truck proceeded on I-5 north of J Street it slowed to approximately 15 to 20 miles per hour. Officer Geers' vehicle was positioned in front of the stolen truck as it approached Richards Boulevard. Officer Blankinship's vehicle was to the left of the stolen truck and Sergeant Burgess' vehicle was on its right. An Elk Grove Police patrol vehicle was behind the truck. CHP officers converged on the truck and pursued the suspect as it slowly exited I-5 at Richards Boulevard. The stolen truck temporarily stopped on the Richards

Boulevard off-ramp before ramming the rear of Officer Geers' patrol car and pushing it out of the roadway. Officer Blankinship attempted to ram the stolen vehicle to terminate the pursuit, but was unsuccessful after two attempts. The CHP patrol vehicles had the suspect truck boxed in on the off ramp and the truck intentionally drove towards and collided with Sergeant Burgess' vehicle. Sergeant Burgess attempted to PIT the stolen vehicle as it made a right turn onto Richards Boulevard, but was also unsuccessful.

The truck continued down the Richards Boulevard exit and turned right. The officers pursued the truck as it turned south on Bercut Drive. Just south of the intersection of Bannon Street, while apparently trying to turn around to avoid a dead end, the truck crashed into a light pole and stopped while facing east. Sergeant Burgess parked his patrol car directly behind the truck. Officers Troutman and Geers parked their patrol cars just north of the truck in a reversed "v" shape with Geers on the left and Troutman on the right. Both patrol cars were facing south on Bercut Drive.

The CHP patrol vehicles involved in the pursuit and shooting were equipped with in-car cameras, which included visual and audio recordings. When the truck crashed into the light pole, several CHP officers immediately exited their patrol cars with their guns drawn. Officer Troutman shouted repeatedly in English and Spanish for the driver to show his hands, warning that he would be killed. The driver ignored the officer's commands. Instead, he backed into Sergeant Burgess' patrol car, appearing to begin a three-point turn.

As the suspect started to turn the truck toward Officers Geers' and Troutman's patrol cars, Officer Geers stated that he was going to shoot the driver. Officer Geers got out of his patrol car at this time and moved to a position left of his driver's side door. Officer Troutman moved to a position in front of his patrol car. Sergeant Burgess got out of his patrol car and approached the driver's side window. As the truck started moving forward toward the officers and their patrol cars, Sergeant Burgess punched the driver's window twice – breaking the window on the second attempt.

Officer Troutman was now in the immediate path of the truck. As the truck moved forward, Officer Troutman fired several shots. As the truck passed him, Officer Troutman continued firing through the driver's window. He fired a total of seven shots because he was afraid he would be hit and injured or killed by the truck. He also feared that Officer Geers' life was in danger.

As the truck moved forward, Officer Geers fired a total of five shots from the passenger side of the truck because he was afraid that his and Officer Troutman's lives were in danger. The truck collided with Officer Troutman's patrol car and came to a stop.

Shortly after the shooting, CHP officers were able to remove the suspect from the truck and laid him on the ground. Officers applied direct pressure to the suspect's wounds and began chest compressions. Fire Department personnel arrived approximately five minutes after the shooting and provided medical aid to the suspect.

The suspect was identified as Joey Britt and taken to the UC Davis Medical Center. Britt suffered three gunshot wounds on the left side of his neck, one wound on the right side of his neck, one wound on the right side of his cheek, one wound on the left side of his cheek, and two wounds on his left arm. The Sacramento County District Attorney's Office Laboratory of Forensic Services confirmed the presence of THC (the active ingredient in marijuana) in Britt's blood at the time of the shooting.

LEGAL ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. Additionally, 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; *Graham v. Connor* (1989) 490 U.S. 386; *Kortum v. Alkire* (1977) 69 Cal.App. 3d 325; California Penal Code section 835a; CALCRIM 2670.) An officer who attempts to arrest or detain a person need not retreat or desist from his efforts by reasons of the resistance or threatened resistance of the person; 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.) Police may use some degree of physical coercion or threat thereof to accomplish an arrest. The force used must be objectively reasonable, considering such issues as the severity of the crime, whether the suspect posed an immediate threat to police or others, and whether the suspect actively resisted arrest or attempted flight. (*Graham v. Connor* (1989) 490 U.S. 386.) The reasonableness inquiry takes into account those facts known to the officer at the moment he or she uses deadly force to apprehend a fleeing suspect. (*Ford v. Childers* (7th Cir. 1988) 855 F.2d. 1271, 1275; *Sherrod v. Berry* (7th Cir. 1988) 856 F.2d 802, 804.)

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.) The rule "requires that the officer's lawful conduct be established as an objective fact; it does not establish any requirement with respect to the defendant's mens rea." (*People v. Jenkins* (2000) 22 Cal.4th 900, 1020.)

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 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.)

A review of the statements and physical evidence reveals the following: Joey Britt stole a Ford F550 truck from a jobsite in Stockton. He committed a hit and run in Stockton before he fled northbound on I-5. Britt took law enforcement officers on a high speed chase that covered multiple jurisdictions. CHP officers made several attempts to stop him with the use of spike strips and PIT maneuvers, but Britt refused to stop. Instead, he continued to evade and flee from the officers. Although he was completely blocked in on Bercut Drive, Britt still continued to attempt to flee. He backed into one patrol vehicle in the immediate proximity of an officer, placing that officer in imminent danger. Britt then turned the stolen truck in the direction of the officers and tried to drive away. As the truck moved toward the officers, they reasonably believed that their lives were in danger and fired shots at Britt. Although Britt was hit several times, his injuries were not lethal.

CONCLUSION

Applying the controlling legal standards with the factual record, we conclude that Officers Geers and Troutman were justified in using deadly force in this situation. The objective evidence supports a finding that the officers' conduct was reasonable under the circumstances. Accordingly, we find the shooting to be lawful and will take no further action in this matter.

cc: CHP Officer Dan Geers
 CHP Officer Don Troutman
 SPD Detective Dan Burke