



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

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MEMORANDUM

DATE: August 27, 2018

TO: Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

Chief Brent Newman
California Highway Patrol – Valley Division
2555 1st Avenue
Sacramento, CA 95818

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting: Case No. 2017-289964
Shooting Officers: Ken Crouch, SSD #641
Robert French, SSD #1162
Benjamin Green, SSD #1347
Michael Heller, SSD #268
Alex Lopez, SSD #1171
Allen Miller, SSD #779
Antonio Montalvo III, SSD #619
John Wilson, CHP #17103

Person Shot: Thomas Littlecloud (DOB 5/31/85)

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 Thomas Littlecloud. For the reasons set forth, we conclude that the shootings were lawful.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento Sheriff Department report number 2017-289964; dispatch logs/audio; 9-1-1 audio recordings; witness interview recordings; in-car camera videos; crime scene photos; Sacramento County District Attorney's Office Laboratory of Forensic Services scene, evidence, blood alcohol, and toxicology reports; and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On August 30, 2017, at approximately 10:00 a.m., officers from the Sacramento County Auto Theft Task Force (SACCATS) at the Ramada Inn at 2600 Auburn Boulevard observed two females enter a stolen BMW in the parking lot. Officers followed as the vehicle left the hotel's lot, and attempted to stop it. However, the driver failed to yield and a vehicle pursuit ensued. The stolen BMW was eventually stopped in Elk Grove. The driver was identified as Priscilla Prendez.

Prendez was found to be in possession of a key to Room 234 at the Ramada Inn. The room was registered in her name. A records check revealed that she was on searchable probation. At just before noon, Sheriff's Detective Thomas Lynn and Deputy Alex Lopez, along with California Highway Patrol (CHP) Officers John Wilson, David Woodruff, and Joel Corralejo, attempted to conduct a probation search of Room 234. Deputy Benjamin Green covered the rear of the hotel, where the balcony to Room 234 was located.

Upon arriving at the door of Room 234, they knocked and announced their presence by identifying themselves as peace officers. After receiving no response, Deputy Lopez used a passkey provided by the hotel manager to unlock the door. When Deputy Lopez attempted to open the door, the door was stopped by the interior latch. Then someone inside the room pushed the door closed. The officers attempted to gain entry by forcing the door, but continued to meet resistance from someone inside. Deputy Lopez advised the person inside to move out of the way or he would fire through the door. Within seconds of him saying this, multiple shots were fired at the officers from inside the hotel room through the hotel door, striking CHP Officers Wilson and Woodruff. Officer Wilson was struck in the hand and lower back, and Officer Woodruff was struck in the shoulder. Deputy Lopez and CHP Officer Wilson returned fire.

After hearing the shots fired, Deputy Green observed a male subject, later identified as Thomas Littlecloud, attempting to flee from the balcony of Room 234. Littlecloud was armed with an AK-47 assault rifle and had a black bag slung over his shoulder. Littlecloud pointed the rifle at Deputy Green and fired at him repeatedly. Deputy Green returned fire. Littlecloud jumped off the balcony and ran east. He then ran north along the east side of the hotel and northwest into the parking lot area.

Deputy Robert French was in the area, heard the call of shots fired, and took a position in the parking lot just east of the lobby entrance. Littlecloud fired several rounds across the parking lot at Deputy French. Littlecloud advanced closer to Deputy French, and took a kneeling position near a gray Dodge Challenger. Littlecloud fired several more rounds at Deputy French. By this point, Officer Corralejo had exited the hotel and joined Deputy French at his vehicle. Deputy French told Officer Corralejo that he had been hit by some shrapnel. Officer Corralejo observed blood on Deputy French near his left ear.

Deputies Anthony Montalvo and Ken Crouch arrived and took a position close to the entrance of the hotel's lobby near Deputy French and Officer Corralejo. Deputy Michael Heller also arrived and took a nearby position.

Littlecloud drove the Challenger at a high rate of speed through the parking lot towards the area of the lobby's entrance and between Deputy French's vehicle and the other deputies who had arrived. As Littlecloud passed the front entrance to the Ramada Inn, he held the steering wheel with his left hand, and had the rifle in his right hand with the barrel resting on his left arm pointed out towards the driver side window. Deputies French, Montalvo, Crouch, and Heller fired their weapons at the Challenger. Littlecloud exited the Ramada Inn's parking lot onto Fulton Avenue.

Littlecloud drove south onto Fulton Avenue in the northbound lanes and a vehicle pursuit ensued. Littlecloud attempted to elude capture by erratically driving at high speeds, over curbs, and on the wrong side of the road. Littlecloud proceeded from southbound Fulton Avenue to eastbound Marconi Avenue, and then to southbound Watt Avenue.

Back at the Ramada Inn, Deputy French realized that he had been shot once in the chest. Deputy French was transported to the hospital, but died from his injury. A review of in-car camera videos from deputies' patrol vehicles shows Deputy French apparently being struck when Littlecloud fired across the parking lot, before driving the Challenger.

At the intersection of Watt Avenue and El Camino Avenue, Littlecloud had to stop because of heavy traffic as he entered the turn lane for eastbound El Camino Avenue. Deputy Allen Miller exited his patrol vehicle and attempted to approach Littlecloud. Littlecloud was able to maneuver his vehicle between other stopped cars and drove over the center divider median. Littlecloud raised the barrel of his rifle out the driver's side window. Seeing the rifle, Deputy Miller fired at Littlecloud. Littlecloud drove the wrong way on Watt Avenue and proceeded eastbound on El Camino Avenue.

Littlecloud continued to attempt to evade officers, driving at approximately 100 mph eastbound on El Camino Avenue while in the westbound lanes. Littlecloud struck a center median and his vehicle became airborne and then collided with a power pole near Millrace Road. Officers took him into custody, and observed that he appeared to have sustained gunshot wounds. Littlecloud was transported to Mercy San Juan Hospital.

In the vehicle, officers located the AK-47 assault rifle on the center console. The rifle was loaded with a 30-round magazine, which had an additional empty 30-round magazine attached to it with black tape. A loaded 9mm handgun was on the driver's seat. Officers also found in a dark blue bag on the floorboard two more 9mm handguns, a military grenade with its pin intact, a black asp (collapsible baton), and a small electronic scale commonly used by drug dealers to weigh controlled substances. Over \$13,000 cash was located in a fanny pack Littlecloud had been wearing. A records check of the Dodge Challenger Littlecloud was driving showed that it was reported stolen out of Alameda County.

Officers maintained positions covering the doorway and balcony for Room 234 until Sheriff's Special Enforcement Detail officers made entry and confirmed no one else was inside. A search of Room 234 revealed a 9mm handgun under the mattress, approximately ½ pound of suspected methamphetamine, as well as quantities of suspected heroin, cocaine base, and psilocybin. Numerous rounds of live ammunition, a lock pick set, numerous apparently stolen identification

cards and mail, and equipment commonly used to commit identity theft were also located inside the room.

Nine expended 9mm casings and fifteen expended AK-47 rifle casings were located within the hotel room, with an additional expended AK-47 rifle casing on the balcony. Four expended AK-47 rifle casings and two live AK-47 rifle rounds were found in the rear area of the hotel under the balcony to Room 234. In the parking lot near where the Challenger had been parked, ten expended AK-47 rifle casings were clustered in the vehicle pathway between the strips of car stalls, and four additional expended AK-47 rifle casings were located around an island in the parking lot for a palm tree.

Round counts and recovered casings confirmed that CHP Officer Wilson fired four rounds from his .40 caliber handgun and Deputy Lopez fired seven rounds with his 9mm handgun while in the hallway to Room 234. Deputy Green fired twelve rounds with his 9mm handgun at the back door of the hotel. Deputy French fired five rounds and Deputy Montalvo fired seven rounds with their respective .223 caliber rifles, and Deputy Crouch fired three rounds and Deputy Heller fired five rounds with their respective 9mm handguns, while in the front area of the hotel. Deputy Miller fired three rounds with his 9mm handgun while on Watt Avenue.

On September 2, 2017, Littlecloud died at the hospital. According to the Sacramento County Coroner's report, the cause of death was complications of gunshot wounds to his torso. Littlecloud had gunshot wounds to his left chest, left back, and right lower back. The Sacramento County District Attorney's Office Laboratory of Forensic Services confirmed the presence of methamphetamine, amphetamine, methylenedioxymethamphetamine (MDMA), methylenedioxyamphetamine (MDA), and midazolam in Littlecloud's blood.

At the time of this incident, Littlecloud had an outstanding arrest warrant for failing to appear on a firearms case in the United States District Court for the Northern District of California, San Francisco Division. Littlecloud reportedly told others that he was not going back to prison and that police would have to kill him because he was going to shoot at them if they tried to arrest him.

LEGAL ANALYSIS

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.)

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.)

Deadly force may be used to prevent an apparently unarmed suspected felon's escape if the force "is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." (*Tennessee v. Garner* (1985) 471 U.S. 1, 3.) "If the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given." (*Id.* at pp. 11-12.)

Applying these legal principles to the factual circumstances, each of the officers clearly had the right to act in defense of themselves, in defense of their fellow officers, and in defense of the public. Sheriff's Deputy Lopez and CHP Officers Wilson and Woodruff, along with other officers, were lawfully attempting to conduct a probation search of Room 234 at the Ramada Inn. After first blocking their entry into the room, Littlecloud began shooting at them with a firearm through the door, striking Officers Wilson and Woodruff. Officer Wilson and Deputy Lopez reasonably believed that they, and their fellow officers, were in imminent danger of death or great bodily injury, when they returned fire. Similarly, Deputies Green, French, Crouch, Heller, and Montalvo actually and reasonably believed their lives, and their fellow officers' lives, were in danger when Littlecloud fired upon them while trying to escape from the hotel. Deputy Miller also reasonably felt in danger by the threat that Littlecloud posed to him and other officers on Watt Avenue. Furthermore, CHP Officer Wilson and Deputies Crouch, French, Green, Heller, Lopez, Miller, and Montalvo were justified in using deadly force to prevent Littlecloud's escape as they had probable cause to believe that he posed a significant threat of death or serious physical injury to officers and the public.

CONCLUSION

Given the circumstances, the officers were justified in using deadly force. We find the shootings to be lawful and will take no further action in this matter.

cc: California Highway Patrol Officer John Wilson #17103
Sacramento Sheriff's Deputy Ken Crouch #641
Sacramento Sheriff's Deputy Benjamin Green #1347
Sacramento Sheriff's Deputy Michael Heller #268
Sacramento Sheriff's Deputy Alex Lopez #1171

Sacramento Sheriff's Deputy Allen Miller #779
Sacramento Sheriff's Deputy Antonio Montalvo III #619
Sacramento Sheriff's Sergeant Paul Belli #128
Sacramento Sheriff's Sergeant Ken Clark #19
Sacramento Sheriff's Lieutenant Dan Donelli #86
Rick Braziel, Office of the Inspector General
Kimberly Gin, Sacramento County Coroner