



99-15069

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OFFICE OF THE

DISTRICT ATTORNEY
SACRAMENTO COUNTY

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District Attorney

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Arturo Venegas
Chief of Police
City of Sacramento
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Sacramento, CA 95814

16 April 1999

Re: OFFICER-INVOLVED SHOOTING: SACRAMENTO POLICE DEPARTMENT
REPORT 99-15069
SHOOTING OFFICERS: OFFICER JOHN PATRICK KELLER AND
OFFICER JOSEPH SCOTT WAGSTAFF
PERSON SHOT: DANNY GEORGE RAVIART

Dear Chief Venegas:

I have received and reviewed the Sacramento Police Department reports in this case, including video and audio tapes, and 35 mm photographs, portions of Department of Justice Bureau of Narcotics Enforcement report number SA 99-0054, a supplemental report from Sacramento Sheriff's Detective Daniel Minter, and reports prepared by Sacramento County District Attorney's Office Criminal Investigators Edward Igoe and Brad Williams. Upon reviewing these materials, I have concluded that the shooting was justified.

FACTS:

Between January 26, 1999 and February 19, 1999, a series of robberies were committed at commercial businesses within the city and county of Sacramento. Detective Daniel Minter of the Sacramento Sheriff's department was assigned to investigate twelve (12) robberies which were committed in the county. Detective Dale Stanfield of the Sacramento Police Department was assigned to investigate three similar robberies which had occurred in the city. Danny George Raviart was identified as the primary suspect in these robberies. Photo lineups were shown to

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witnesses and victims. Raviart was identified as the perpetrator of 11 of these robberies. Raviart allegedly used both a handgun and a knife in the commission of some of these robberies.

Both detectives discovered that Raviart was a parolee-at-large with active warrants for his arrest. They also learned that he was a "three-striker" and if convicted of a felony, could be facing imprisonment in state prison for 25 years to life. In order to apprehend Raviart, Sheriff's Detective Minter and Police Detective Stanfield requested assistance from the California State Department of Justice Bureau of Narcotic Enforcement /Violence Suppression Unit (BNE/VSU) and from California State Parole Agents.

On February 24, 1999, Detectives Stanfield and Minter met with DOJ BNE/VSU Special Agents and Department of Parole Agents and attempted to locate Raviart. DOJ agents received information that Raviart was at a residence at [REDACTED] Azusa Street, in the City of Sacramento. En route to the residence, Detective Stanfield requested the assistance of uniformed Sacramento Police Department officers and requested that they meet him near the residence. Several officers arrived at the residence, including Officer John Patrick (Pat) Keller. Later, a canine unit was requested to assist at the scene, and Officer Joseph Scott (Joe) Wagstaff responded with his canine partner Jack to assist in a search of the Azusa residence.

Both Officer Keller and Officer Wagstaff were briefed by detectives regarding Danny George Raviart. They were told that Raviart was wanted for a series of robberies. They were told that Raviart used a firearm during some of these robberies. They were informed that Raviart was a parolee-at-large, with an active parole warrant for his arrest, and that he should be considered armed and dangerous. A Sacramento Police Department arrest bulletin or "bolo" was also issued which contained similar information regarding Raviart. Both Officers Keller and Wagstaff viewed a photo of Raviart.

At the Azusa residence, officers obtained additional information regarding Raviart. Officer Keller spoke with a male subject at the residence. The male subject told Keller that he had known Raviart for several years, that Raviart had been at the residence earlier that day, that Raviart had been using methamphetamines heavily, and was acting "really weird." Keller later told investigators, that based on his law enforcement training and experience, he knew that the behavior of a person who was under the influence of methamphetamines may be unpredictable. Keller told detectives that he knew Raviart was a "three striker, and had nothing to lose."

Although Raviart was not located at the Azusa residence, officers did arrest resident David Ruiz for possession of methamphetamines. Ruiz offered to show officers where Raviart was currently located. DOJ Special Agent Douglas Moutinho took custody of Ruiz and all officers were requested by radio to meet with Moutinho at a briefing or staging area location at a shopping center located at Truxel and West El Camino Avenue.

At the briefing location, Moutinho informed the other officers that Ruiz had taken him to the Motel 6 on Jibboom Street, located off Richardson Blvd., in the City of Sacramento. Moutinho stated that Ruiz pointed out a vehicle parked in the parking lot of the Motel and identified the vehicle as the one Raviart had been driving. Ruiz also told officers that Raviart was located in

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room 145 at the Motel 6. Ruiz told officers that he knew which room Raviart was in because Ruiz had rented the room for Raviart. Officers discussed conducting a surveillance at the motel to determine the location of the suspect. Officers also discussed setting up or deploying in the vicinity of the room and making a phone call to the room in an attempt to get Raviart to leave the room so that the officers could effect his arrest outside the motel room. Officers also discussed that should Raviart barricade himself inside the room, the Sacramento Police Department SWAT Unit would supervise the operation.

At approximately 1850 hours, officers and agents, including Officers Keller and Wagstaff, arrived in the area of the Motel 6. Agent Moutinho and Detective Minter contacted the motel management and obtained a pass key for room number 145. Officers set up a surveillance of the motel room and Raviart's vehicle which was parked in the motel parking lot.

There were only two marked police vehicles at the motel surveillance site. These vehicles had been driven by Officers Keller and Wagstaff. All other officer vehicles involved in the surveillance were unmarked vehicles. Officer Keller and Officer Wagstaff positioned their vehicles near the parking lot of the motel, in the vicinity of Raviart's parked vehicle. Keller later joined Wagstaff in Wagstaff's vehicle. Wagstaff's vehicle was a marked black and white police car with the word "police" written across the back of the vehicle. The vehicle was equipped with a light bar, which was attached to the roof of the car. Sacramento Police Department emblems were on both the driver and passenger doors of the vehicle.

Officer Wagstaff was wearing "b.d.u.s" (battle dress uniform), which is a dark blue 2 piece uniform, worn over a bullet-proof vest. The shoulder portions of the uniform shirt had two SPD uniform patches. Wagstaff was also wearing his SPD metal badge over his left chest shirt pocket. He had his name embroidered over his right chest pocket. He was wearing a police radio with the microphone hooked to the front upper left shoulder of his uniform. He was wearing his department-issued Sam Brown belt, on which he carried his tactical holster containing his loaded forty-five caliber Sig Sauer P220 handgun, four ammunition magazines, OC spray, a baton ring, two sets of handcuffs, and a flashlight.

Officer Wagstaff's canine partner Jack was wearing a patrol harness with the word "police" written on the side of the harness in one and one-half inch high lettering. The lettering is black on a florescent green background. The harness is designed to designate Jack as a police dog.

Officer Keller was wearing blue denim jeans, a Sam Browning belt containing his Sig Sauer P26 9 millimeter handgun with additional magazines, flashlight, and handcuffs. His police badge was affixed to the front of his belt. He was wearing a bullet-proof vest under a dark blue, department-issued police raid jacket. The jacket had a police badge logo on the front, police patches on the upper arms and the word "police" written in large yellow letters on the back. The jacket was worn tucked in at the pants waist band so that the Sam Brown belt and the items worn on it were visible.

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Shortly after Officer Keller and Officer Wagstaff set up their position in the parking lot, they were informed by radio transmission that Raviart and a female companion were walking in the motel parking lot, toward Raviart's vehicle. Keller and Wagstaff decided to arrest Raviart at that time, when he was outside the motel room and a hostage/barricade situation could be avoided. They also wanted to arrest Raviart before he was able to drive the vehicle from the parking lot, thereby avoiding a potential vehicle pursuit.

At this time, their set-up position was in the adjacent La Quinta Motel parking lot, approximately four hundred yards from Raviart and the female. Wagstaff began to move his marked vehicle slowly, with lights out, closer to Raviart's location. As Wagstaff drove the vehicle forward, other unmarked units were also moving slowly toward their location. Wagstaff and Keller neared Raviart's vehicle and stopped. Just as Wagstaff stopped his vehicle, a marked California Highway Patrol vehicle pulled across the street. The CHP officer apparently saw the marked Sacramento Police Department unit and attempted to check out what was happening in the motel parking lot. The CHP vehicle shined its headlights into Raviart's vehicle, illuminating both the vehicle and the parking lot. The CHP officer was not part of the surveillance operation, and his intervention alerted Raviart to the presence of law enforcement and "burned" the surveillance team.

Raviart and the female retreated on foot from the vicinity of the suspect vehicle, and walked back across the parking lot toward room 145. Officer Wagstaff drove quickly into the parking lot. He opened the door for Jack, ordered him to heel, and they both ran northeast toward a breezeway entrance to a wing of motel rooms. Officer Keller ran behind Officer Wagstaff. The area near the motel rooms was well lit. There was parking lot lighting, lighting from the adjacent freeway, and bright overhead lighting in the breezeway corridors where the rooms were located.

As Officer Wagstaff came around the corner of the building, he saw Raviart and the female standing in the breezeway. The female looked at him. He noted she had a panicked expression on her face. Raviart turned toward Wagstaff. Wagstaff ordered "hold it" or "police, hold it." He then added, "stop, or I'll send the dog." Jack was still at a heel position. At this time Officer Wagstaff was approximately fifty feet from Raviart.

According to Officer Wagstaff, Raviart had a look of alarm on his face. Raviart looked straight at Wagstaff, looked momentarily at the female, and then turned toward Wagstaff and "squared himself up." Per Wagstaff, he had been trained to interpret this action as a precursor to an offensive move. He then observed Raviart extend his abdomen upward as one of his hands reached toward his belt. Wagstaff is unsure which hand Raviart used, but recalled that Raviart was holding a pair of sunglasses in one of his hands. As Raviart exposed the waistband of his pants, Wagstaff observed a handgun and one of Raviart's hands was on the gun. He then observed Raviart pull the hand gun from his waistband, and hold it just above his belt. Wagstaff could see the silhouette of the gun. He recognized that it was a chrome semiautomatic handgun.

Wagstaff observed Raviart continue to move the gun up, away from his waistband. He momentarily lost sight of the gun as Raviart raised it to the area of Raviart's stomach. During this time Wagstaff sent Jack after Raviart. Wagstaff dove for the corner of the building for

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cover. He believed he immediately was threatened and believed he was going to be shot. He did not know where Officer Keller was at this time. As soon as he hit the ground, Wagstaff yelled "gun." Wagstaff turned to his right and drew his weapon. It was at this time that he saw Officer Keller.

When Officer Keller first spotted Raviart and the female in the breezeway, Jack had already started down the walkway toward the suspect. The female was stopped, approximately ten feet in front of Keller. She was standing off to Keller's right, off the walkway near the oleander bushes. Raviart was standing on the walkway, approximately fifteen feet ahead of the female.

As Officer Keller approached Raviart, he saw a weapon in Raviart's hand. Officer Keller heard Officer Wagstaff yell "gun." Officer Keller focused on the weapon and recognized that it was a small chrome semiautomatic handgun. Raviart was pointing the gun with his arm extended in front of his body, slightly below shoulder level. Raviart was pointing the gun directly at Officer Keller.

Officer Keller already had his service handgun out, and realizing that Raviart was going to shoot him, Keller aimed and shot approximately five rounds at Raviart. As Keller was shooting, he moved toward the south wall for cover. Jack was in front of him at this time. As a result of the shots fired, Jack was running around barking and was very agitated.

Before Keller fired his gun, Officer Wagstaff, after reaching the corner of the building for a position of cover, saw Keller square up, take a shooting stance, raise his gun in his right hand, support it with his left hand, and point toward the area where Raviart had been standing. Wagstaff drew his gun and heard Keller fire approximately four shots. At the same time, Wagstaff came around the corner, saw Raviart, and fired at him. Wagstaff and Keller saw that Raviart was going down and ceased firing.

Keller ordered the female to the ground. It was later determined that the female was not involved with Raviart's criminal activities. The female was identified as [REDACTED] Ms. [REDACTED] is on felony probation for possession of methamphetamines [REDACTED] Ms. [REDACTED] was interviewed by Sacramento Police Detective Keith Burgoon. She told Detective Burgoon that Raviart was a social friend and that he had picked her up earlier that evening and had agreed to give her a ride to her boyfriend's house.

[REDACTED] told officers what she remembered of the events which preceded the shooting. She admitted to drinking one or two beers with Raviart at the motel room. She stated that Raviart showed her some marijuana. However, neither she nor Raviart ingested the marijuana.

She told Detective Burgoon that she did not see Raviart with any guns that evening. She stated that shortly before the shooting, she and Raviart left the motel room and went to the car where they loaded up their bags. She stated that Raviart asked her to return to the room to see if they had forgotten anything. She stated that she went back to the room by herself and "grabbed" Raviart's sunglasses and cell phone from the room. Raviart walked into the room and told her,

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"Let's walk as a couple because there is a cop across the street." She stated that she walked out of the room, followed by Raviart. She stated she was almost to the parking lot when she saw three to four undercover "cops." She heard the cops yell, "stop or I will shoot!" She did not believe that the officers were talking to her. She thought that Raviart ran because he was not beside her anymore. She turned around and knew that they were talking to Raviart. She heard "pop, pop, pop, pop." She heard approximately four shots. She saw one of the officers firing the shots. She turned and saw Raviart on the ground. Then she saw "cops" coming from everywhere. She was ordered to the ground and handcuffed.

The location she described where she was standing when the shooting occurred was consistent with her position as described by Officer Keller in his statement. She stated that at the time of the shooting that she was frightened and that her attention was drawn to the approaching officers. She told the detective that she was looking at the officer while the officer was engaged in the act of shooting. Given the focus of her attention during the shooting, she apparently was not watching Raviart at the time and therefore she may not have been in a position to see Raviart point a handgun at Officer Keller.

After the shooting, Wagstaff, Keller and other officers approached Raviart. Keller and Wagstaff both yelled at Raviart to move away from the handgun, which was on the ground near Raviart, above his head and within arm's length. Raviart was rolled over, away from the weapon. The weapon, a Davis Industries .380 chrome semi-automatic handgun was loaded with 6 rounds of ammunition, including one round in the chamber.

Sunglasses were found at the scene within arm's length of the position where Raviart lay after he was shot. The sunglasses were next to the second handgun recovered, a loaded Titan .25 caliber blue steel semi-automatic handgun. This handgun was loaded with a total of eight rounds, including one round in the chamber. A buck knife, its approximately four inch blade extended, and a key chain with pepper spray were also located within arms length of Raviart. Per Detective Minter, Raviart's cell phone was not recovered from the scene of the shooting but was recovered from his vehicle.

A total of seven shell casings were recovered by crime scene investigators. Two were identified as having come from Officer Wagstaff's gun. Five were identified as having come from Officer Keller's gun.

Raviart was handcuffed, administered first aid, and transported via ambulance to U.C.D. medical center for treatment. He declined to give a statement to officers. Raviart's injuries were not life threatening and he is expected to make a full recovery. However, when asked by a custody officer at the hospital if he were in a lot of pain, Raviart stated, "Yes, but I guess its my own fault for doing what I did."

Raviart was arrested and charged with multiple counts of robbery, including armed robbery, as well as assault with a deadly weapon on peace officers.

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ANALYSIS:

A peace officer as well as a private citizen has the right to use deadly force under circumstances where it is reasonably necessary for self-defense or for the defense of others. In addition, a peace officer may use deadly force in order to apprehend a person who has committed a dangerous felony (involving threatened infliction of serious physical harm). Penal Code Section 196 and 197; *Tennessee v. Garner* (1985) 471 U.S. 1; *Kortum v. Alkire* (1977) 69 Cal. App. 3d 325. Regarding the use of deadly force in self-defense, California law permits such use if it reasonably appears that the person claiming the right of self-defense actually and reasonably believed he or some other person or persons was in imminent danger of great bodily injury or death. Further, in California there is no duty to retreat when a non-aggressor is confronted with deadly force.

Here, both Officer Keller and Officer Wagstaff were searching for a suspected armed fugitive wanted for parole abscond violations, who had been identified as having committed a series of robberies where Raviart used a handgun in the commission of the crimes. Robbery with the use of a firearm is a violent felony as defined in Penal Code Section 667.5(c)(8). The officers could therefore expect that when confronted, Raviart would be armed with a deadly weapon, a handgun. The officers also learned that Raviart was probably under the influence of methamphetamines. Their experience with individuals under the influence of methamphetamines caused them to believe that when confronted, Raviart's behavior may be violent or unpredictable. The officers also knew that Raviart was a three-strike felon, and that if he were convicted of another felony offense he could be sentenced to a 25 years to life state prison commitment. Therefore, they could expect that Raviart would resist apprehension by any means possible, and that Raviart possessed the deadly weapons to do so.

This was the situation that confronted them. When Officer Wagstaff, in uniform, approached him, Raviart looked at Wagstaff. Officer Wagstaff, accompanied by his uniformed canine partner Jack, ordered Raviart to stop. He then told Raviart to stop or Wagstaff would send the dog after Raviart. Instead of complying with Officer Wagstaff's lawful orders, Raviart drew a loaded weapon. He pointed a loaded weapon directly at Officer Keller. Fearing for their safety, when faced with a direct assault with a firearm by Raviart, both officers fired at a suspected violent felon and fugitive. They fired in self-defense and in defense of any other officers or innocent motel guests, both known and unknown to the officers, who may have been present.

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CONCLUSION:

The shooting of Danny George Raviart by Officers John Patrick "Pat" Keller and by Officer Joseph Scott "Joe" Wagstaff was justified. Accordingly, we will take no action regarding Officers Keller and Wagstaff. Thank you for referring the matter for our review.

Very truly yours,

JAN SCULLY
DISTRICT ATTORNEY



MARY DAVIS SIMMONS
Deputy District Attorney

cc: Officer John Patrick Keller
 Officer Joseph Scott Wagstaff
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Records or information, the disclosure of which would compromise the anonymity of whistleblowers, complainants, victims or witnesses (Cal. Pen. Code § 832.7(b)(6)(B));

Records or information, the disclosure of which would reveal personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information (Cal. Pen. Code § 832.7(b)(7));

Records or information wherein the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure (Cal. Gov. Code § 7922.000);

Records or information that constitute confidential medical, financial, or other information, the disclosure of which is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy (Cal. Pen. Code § 832.7(b)(6)(C));

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