

ORIGINAL
OFFICE OF THE

0010882

COPY



DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY

September 8, 2000

Arturo Venegas
Chief of Police
900 8th Street
Sacramento, CA 95814

Re: Officer-involved shooting: SPD case number 00-10882
Shooting officer: John Tennis, Badge no. 733
Person shot: Carlos Steven Gonzalez

Dear Chief Venegas:

I have received and reviewed the reports in this case, together with the audio/video tapes and photographs. Having reviewed the material, I have concluded the shooting was justified.

FACTS:

The shooting took place on February 9, 2000, in the early morning hours. On that date, at approximately 12:24 A.M. Officers Tennis and Galipeau (in uniform and in a marked patrol vehicle) advised dispatch that they would respond to assist other officers on a weapons call at [REDACTED] Harris in Sacramento. The information provided in the weapons call was that the suspect had beaten the complainant and was armed with a sawed-off shotgun and a pistol.

A couple of minutes after advising that they would respond, Officers Tennis and Galipeau arrived in the area and stopped on Cypress just north of Harris to wait for additional units. A second unit arrived and stopped in front of a residence on Harris. Officer Tennis got out of the patrol car to check for the address while Officer Galipeau went over to the other squad car to contact the other officers.

Officer Tennis checked the building he thought may be [REDACTED] Harris but could not locate an address. As he was doing this, he heard a noise at the back of the building (a single story building, which contained three or four units). Thinking that someone in the house may have

Arturo Venegas
September 8, 2000
Page 2

gone out the back after spotting the patrol cars out front, Officer Tennis walked toward the back of the building. Having in mind that the suspect they were looking for was supposed to be armed, when Tennis reached the back of the building, he looked carefully around the corner. He saw a male, Hispanic (hereafter, suspect) wearing a bulky dark jacket and jeans. The suspect had something clutched up against his body, between his chest and waistband area. The suspect was approximately fifty feet from Officer Tennis, at the opposite end of the building, peering around the corner with his back against the wall. It appeared to Officer Tennis that he was trying to conceal himself, knowing that the police had arrived. Officer Tennis believed that this was the subject described in the call (although it was later determined this was not the case) and that he was armed.

Officer Tennis stepped around the building's corner with his gun and flashlight in hand, and yelled at the suspect, ordering him to show his hands. The suspect turned toward Tennis, looked briefly at him, and then fled around the corner of the building. Officer Tennis ran after him. The suspect ran diagonally across Harris Street toward Cypress. Officer Tennis was yelling at the suspect to stop and was yelling at the officer in front of the building, warning him that the suspect had a gun. Once the suspect got across Harris, he ran northbound down an alley. Officer Tennis was approximately 30 to 50 feet behind the fleeing suspect and was yelling at him continuously to stop and to drop the gun. The suspect continued to run, through the alley and then through the backyards of the houses on Cypress. The suspect ran down Cypress to about mid-block where he turned eastbound and ran through a grassy field, continuing to clutch his waistband area. The terrain in the field was uneven and the suspect suddenly fell down but managed to get up quickly and continue running. By this time, another officer who had joined the pursuit was running in front of Officer Tennis and behind the suspect. That officer fell, and Officer Tennis ran past him. The suspect ran out of the field, across Branch and down a driveway of one of the residences on Branch.

Officer Tennis' level of concern escalated as the suspect ran down the driveway. He was concerned that the suspect might run into the house or duck behind a vehicle and then shoot at the pursuing officers, who would be fully exposed. There was a parked van in the driveway and the suspect ran alongside it. Officer Tennis continued to issue commands for the suspect to stop and also warned the suspect that he would shoot him. When the suspect ran around the front of the van, Officer Tennis lost sight of him but heard him hit a fence. When Officer Tennis cleared the van, he saw the suspect on the ground on the other side of the fence. Tennis was only five to seven feet away from the suspect who was in a crouched position, turned partially toward Tennis, reaching for a shiny object that was on the ground. The object looked like a gun. Tennis pointed his gun at the suspect. Tennis saw the suspect grab the gun and look at him. At that point, Tennis believed the suspect was going to shoot him. The suspect started to bring the gun up and started to get up off the ground. Thinking he was in imminent danger of being shot, Officer Tennis fired at the suspect. Tennis fired six rounds

Arturo Venegas
September 8, 2000
Page 3

from his Sig Sauer .45 caliber handgun. As soon as the suspect was hit, the suspect staggered forward and then fell to the ground. He fell with both hands beneath his chest.

Tennis and other officers jumped the fence and eventually were able to get the suspect's arms out from under his body and handcuff him. When the suspect was rolled over, a black semi-automatic handgun was found underneath him. It turned out to be a .40 caliber Glock, which was unloaded. A .40 caliber magazine was found nearby containing five live rounds. An additional four live .40 caliber rounds were located on the ground at the scene. Medical attention was summoned immediately and the suspect was transported to the hospital. There it was learned that the suspect was Carlos Steven Gonzalez, born 7-10-77. Gonzalez survived the shooting.

During a search of Gonzalez' pants pockets after the shooting, five packages of suspected controlled substances were located in clear plastic bags. A presumptive test on the suspected controlled substances was positive for amphetamine. The approximate weight was just over twelve grams.

Follow up investigation revealed that on February 3, 2000, Gonzalez was a suspect in a domestic violence incident in which the victim and witnesses said he hit his wife in the head with a belt wrapped around his hand. His wife was transported to the hospital via ambulance, having sustained a one and one-half inch laceration and two inch in diameter bump on her head. Gonzalez also was said to have brandished a gun and threatened to kill the victim's father during that incident. The radio call printouts from the incident reflect that a witness reported that Gonzalez threatened to kill an officer that night as well.

Gonzalez was on felony probation at the time of the shooting for [REDACTED]

ANALYSIS:

A peace officer as well as a citizen has a right to use deadly force under circumstances where it is reasonably necessary for self-defense. Penal Code sections 196, 197; *Tennessee v. Garner*, 471 U.S. 1; *Kortum v. Alkire*, 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 was in imminent danger of death or great bodily harm.

Here, Officer Tennis shot Gonzalez because he feared that Gonzalez was about to shoot him. This fear was entirely reasonable under the circumstances. The original weapons call indicated the subject of the call was armed. Although it turned out later that Gonzalez was not the

ORIGINAL

0010882

Arturo Venegas
September 8, 2000
Page 4


subject of that call, Officer Tennis had no way of knowing that at the time these events were unfolding. Further, Gonzalez seemed to have something clutched up against his body from the moment Officer Tennis saw him. Gonzalez clearly did not want to be caught by the police. He continued to run, disobeying Tennis' commands to stop even when Tennis warned him that he would shoot him. All indications were that Gonzalez was desperately trying to avoid apprehension. Thus, it would be reasonable to think he might well resort to shooting an officer in his continued attempt to avoid arrest. When Gonzalez finally jumped the fence, apparently dropping the gun in the process, he chose to stop and pick up the gun rather than continuing to run. It would be reasonable to think that he chose this course of action because he intended to use the gun. Finally, when Gonzalez began to raise the gun, Officer Tennis had every reason to believe that he was in imminent danger of being shot. Officer Tennis certainly was not required to wait any longer before firing his own weapon in self-defense.

CONCLUSION:

For the reasons set forth above, the shooting of Carlos Steven Gonzalez was justified. Accordingly, we will take no action against Officer Tennis in connection with this incident. Thank you for referring the matter for our review.

Very truly yours,

JAN SCULLY,
DISTRICT ATTORNEY


JEAN WILLIAMSON
Supervising Deputy District Attorney

cc: Officer John Tennis
Sgt. Rich Gardella
Detective Bill Harrison
Detective Don Parvin
Don Casimere (Director, Office of Police Accountability)



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Arturo Venegas
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JEAN WILLIAMSON
Supervising Deputy District Attorney

cc: Officer John Tennis
Sgt. Rich Gardella
Detective Bill Harrison
Detective Don Parvin
Don Casimere (Director, Office of Police Accountability)

City of
SACRAMENTO
Police Department

KATHERINE LESTER
Chief of Police

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Report Number: 2000-10882

Please note that the records provided in this release do not include records or portions of records that are exempt from disclosure pursuant to applicable law. Without limiting other arguments against disclosure that may exist, the following records or portions of records are specifically prohibited or exempted from disclosure:

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)); and

Records or information, the disclosure of which is exempted or prohibited pursuant to federal or state law (Cal. Gov. Code § 7927.705; see also Cal. Const. art. 1 Sec. 1; and Cal. Pen. Code §§ 11105 and 13300)

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