



OFFICE OF THE  
DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY  
DISTRICT ATTORNEY

CYNTHIA G. BESEMER  
CHIEF DEPUTY

November 4, 2003

Sgt. Craig Hill  
Homicide Bureau  
Sacramento Sheriff's Department  
711 G Street  
Sacramento, CA 95814

Re: Officer-involved shooting: Case no. SSD 03-64966  
SPD 03-75542

Shooting officer: SPD Officer John Hosmer, Badge #319

Person shot: Jermaine Robert Blair (DOB 3/31/75)

Dear Sgt. Hill:

In the above-referenced matter, I have reviewed the reports by your department, which included audio and videotapes and photographs as well as reports by the Sacramento Police Department (#03-75542). I have also reviewed reports by District Attorney Investigators Troy Woodward #49 and James Ross #22. Having completed my review, I conclude the shooting was justified.

FACTS:

On August 29, 2003, at approximately 5 P.M., the Wells Fargo Bank at 2301 Watt Avenue in Sacramento was robbed at gunpoint by a suspect wearing a motorcycle helmet with a tinted visor covering his face. The suspect ran out of the bank after committing the robbery and fled in a blue Mazda pickup truck. A witness reported that the suspect drove the truck to a nearby parking lot, where he abandoned it and got into the passenger seat of an older, brown car (hereinafter "suspect vehicle"), possibly a Nissan. According to the witness, the suspect vehicle then drove off.

Sheriff's communications dispatched officers to a robbery in progress and officers responded to the scene. As well, the Sheriff's helicopter (Star 7) began searching for the vehicle. Ultimately,

officers in patrol cars as well as the helicopter located the vehicle in the area of San Juan and Winding Way. The vehicle attempted to elude pursuing officers, at one point driving over the front lawn of a residence. Prior to driving over the lawn, the suspect vehicle struck a pursuing patrol vehicle (causing minor damage) and, thereafter, ran a stop sign. The vehicle finally came to rest on a sidewalk on Plantation Drive and the occupants bailed out and ran in opposite directions. The driver was caught without incident in the backyard of a residence located at [REDACTED] Plantation Drive.

The passenger, later identified as Jermaine Blair, ran through the neighborhood, jumping fences. Officers converged on the neighborhood and began an all-out search for the suspect. Blair wound up in the backyard of [REDACTED] Plantation and entered the garage. He then opened a side garage door and entered the house. He crouched down just inside the house, in the laundry room area. The homeowner had just returned to his residence and retrieved a gun from his bedroom, after going outside to check out the commotion and seeing the Sheriff's helicopter. When the homeowner came from the bedroom into his living room area, he saw Blair crouched down in his laundry room. He yelled to Blair that he was armed and to get out of his house. Blair pointed a gun at him and the homeowner fired (a Ruger .357 caliber revolver) three times in Blair's direction. Blair fired a round at the homeowner. Neither Blair nor the homeowner were struck by any of the bullets.

The homeowner ran out his front door, threw his gun into a planter box and raised his hands in the air. Officers, not knowing who he was, told him to get on the ground. He threw himself to the ground, sustaining an injury to his shoulder. He was later treated for his shoulder injury at the hospital.

Blair fled the residence the same way he had entered. He again ran through backyards in an attempt to escape officers. Officer Hosmer was one of the (uniformed) officers on foot in the neighborhood searching for Blair. (Hosmer had been in his patrol vehicle in the vicinity of the suspect vehicle when it was eluding officers and drove over the residence lawn.) When he first got out of his patrol vehicle to aid in the search, Hosmer proceeded to the houses on the west side of Plantation Drive. He then jumped the fence of [REDACTED] Plantation. He went to the back of the residence and then to the western most fence. About this time, Hosmer heard four or five gunshots come from west of his location. He then saw a black male adult (Blair) looking around the northeast corner at the back of the house. He watched Blair go to the north fence and saw that he had a handgun in one hand and money in the other. Hosmer radioed that he had a visual on the suspect and that he was armed. Blair then hopped the fence into an adjacent backyard.

Blair continued through residence yards, ultimately encountering several officers in the front yard of [REDACTED] Plantation, near a motorhome. Blair was still holding the handgun in one hand and a wad of money in the other. According to Officer Guajardo, one of the officers in the group,

Blair was holding the gun slightly away from his body, with his index finger near the trigger and the muzzle pointed downward. Officers pointed their guns at Blair and ordered him to drop his gun and lie down. Blair did not comply and officers repeated the command. Finally, Blair slowly dropped the gun to the ground, turned away from the officers and ran, still holding the wad of money, toward the backyard of the residence. Officers yelled for the suspect to stop and get his hands up. Blair grabbed the fence, breaking it as he climbed over it into the backyard. Officers followed through the broken area of fence. Officer Guajardo stated that as he ran through the yard, he heard a male voice yell, "Get your hands up" and then heard two gunshots. He saw the suspect lying on the ground next to a swimming pool where he was being handcuffed.

Officer Hosmer had just heard over the radio about the confrontation between officers and the suspect near the motorhome and that the suspect was not complying. Hosmer was still in the backyard of [REDACTED] plantation. He later stated that at that point he figured that, "if he came back my way it was me or him." Hosmer then heard a fence rattling or breaking and saw the suspect, whom he recognized as the same individual he'd seen earlier with the gun and the money, come running into the backyard. Finding himself without cover and believing the suspect was still armed, Hosmer fired two shots (from his .40 caliber semi-automatic handgun) at him. Blair fell to the ground next to the swimming pool. Other officers came up at that point and handcuffed Blair.

Regarding what, if anything, Officer Hosmer said before firing his weapon, although Officer Hosmer stated he did not say anything to Blair before firing, both Officer Guajardo (as mentioned previously) and Officer Baugh heard something. As indicated, Officer Guajardo heard, "Get your hands up." Officer Baugh, who witnessed the shooting, stated that "after a verbal challenge" Hosmer rapidly fired two rounds from his duty weapon. Blair, who later gave a statement to investigating officers, said that Hosmer did not say anything before shooting him.

Blair had been struck by one of Hosmer's bullets and sustained a gunshot wound to the left anterior thigh. He was taken by ambulance to Mercy San Juan hospital where his injury was treated.

According to the reports, Blair matched the description of a suspect in a series of bank robberies that had been occurring in the several weeks preceding this incident. At the time of the incident, Blair was a recent state prison parolee [REDACTED]  
[REDACTED]

Both vehicles used by Blair to try and effectuate his escape in this case were stolen. Each had had the ignition removed.

The gun Blair had been in possession of was recovered at the scene, where he dropped it. It was a Ruger 9mm semi-automatic handgun which had been reported stolen. It was found with the hammer in a cocked position and the magazine loaded with 6 rounds plus one round in the chamber.

#### ANALYSIS:

A peace officer may use deadly force to apprehend a person who has committed a dangerous felony (involving threatened infliction of serious physical harm) and/or if the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury, either to the officer or to others. Tennessee v. Garner, (1985) 471 U.S. 1; CalJic 5.25. In either case, the use of deadly force must be reasonably necessary under the circumstances. Where feasible, a warning should be given. (Garner at pgs.11,12)

In this case, Officer Hosmer was justified in shooting Blair on two accounts. First, given Blair's actions, Hosmer had every reason to believe that Blair posed a significant threat of serious harm to himself and/or any other officer or citizen he came into contact with. Second, there was probable cause to believe Blair had committed an armed bank robbery, a crime involving the threatened infliction of serious physical harm, and Blair's actions resulted in the necessity for deadly force to prevent his escape.

When Hosmer fired his weapon, he knew Blair was wanted for a fresh armed robbery, had been in the vehicle that recklessly evaded pursuing officers and had bailed out and evaded officers on foot. Hosmer also had heard shots fired, having every reason to believe that Blair was involved in the shots fired incident, and had seen Blair just a short time before with a gun in his hand. And finally, Hosmer knew Blair had just failed to comply with officers' commands during the confrontation near the motorhome.

Hosmer did not know that Blair had dropped the gun. That fact had not been broadcast. Thus, Hosmer had every reason to believe Blair was still armed and so stated during his interview by Detective Timberlake following the shooting.

Given all of the above factors, it was reasonable to conclude that Blair was desperately attempting to escape apprehension and was willing to resort to deadly force himself to achieve his ultimate goal. Thus, there is no question that Hosmer had probable cause to believe that Blair posed a significant threat of serious harm both to himself and to anyone with whom he crossed paths. Moreover, it was reasonable for Hosmer to conclude that deadly force was necessary under the circumstances to prevent Blair's escape. Certainly, Blair was a man on a mission and officers' attempts to catch him short of using deadly force had been unsuccessful up to that point.

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Whether a warning was given or not is not determinative. The evidence is conflicting on that issue but a warning is only required where feasible. In this case, if Hosmer did not say anything to Blair before he fired, it does not alter the justification for the shooting in any way. The events unfolded so quickly that it cannot be said that a warning was either feasible or required.

CONCLUSION:

Finding the shooting in this case justified, we will take no further action 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: SPD Officer John Hosmer #319  
✓SSD Detective Marci Minter #286  
Don Casimere, Office of Police Accountability

**MEMORANDUM****SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



**DATE:** November 17, 2003  
**REF:** PSU 10-03

**TO:** Albert Nájera  
 Chief of Police

**ATTN:** Jeff Schiele, Acting Deputy Chief  
 Office of Investigations

Brian Louie, Captain  
 Internal Affairs

**FROM:** David Hargadon, Sergeant  
 Professional Standards Unit

**RE:** Shooting Review Disposition W03-06

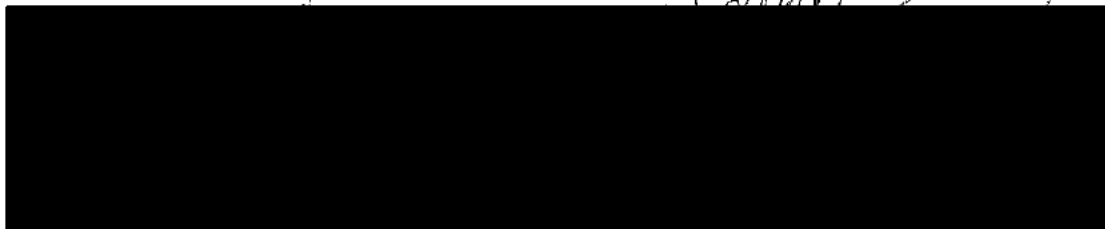
A shooting review was held on Wednesday, November 5, 2003. This review was conducted during the management session of Infocom. All findings were made with the concurrence of the Deputy Chief of Investigations. Those in attendance were:

Chief Albert Nájera  
 Acting Deputy Chief Schiele  
 Captain Parker  
 Captain LaCosse  
 Lt. Nenneman  
 Lt. Schneider  
 Lt. Campas  
 Lt. Sweeney  
 Sgt. Hargadon  
 Sgt. McCloskey  
 Ofc. Anglessey

Deputy Chief Segura  
 Captain Mandalla  
 Captain Louie  
 Captain Valenzuela  
 Lt. Westin  
 Lt. Matthes  
 Lt. Dowden  
 Lt. Sakauye  
 Sgt. Quinn  
 Ofc. Wann  
 Larry Nelson

Deputy Chief Brazier  
 Captain Shiraishi  
 Captain McCarthy  
 Acting Captain Mitchell  
 Lt. Bray  
 Lt. Maccoun  
 Lt. Tatosian  
 Lt. Schiele  
 Sgt. Enriquez  
 Ofc. Evans

The following are the recommendations and findings for this shooting:




[REDACTED]

W03-08

**JUSTIFIED**

**Officer(s) involved**  
Ofc. Hosmer

**Presenter**  
Sgt. Quinn

  
**Division Command**  
Captain LaCrosse

On 8-29-03, at approximately 1703 hours, Ofc. Hosmer chased a suspect who was possibly wanted in a series of armed bank robberies. The suspect jumped over a fence and entered a citizen's house. The suspect and the citizen fired handguns at each other. The suspect fled the citizen's house and ran back to the street. Ofc. Hosmer saw the suspect running and saw that he had a handgun in his possession. The suspect was confronted by police in the street. The suspect dropped the money and the handgun and ran away on foot into the backyard where Ofc. Hosmer was standing ([REDACTED] Plantation). Fearing for his life, Ofc. Hosmer shot at the suspect twice, hitting the suspect once in the leg. While the suspect was not armed, Ofc. Hosmer did not know this. The last time he saw the suspect, the suspect had a gun. Further, Ofc. Hosmer heard gunfire exchanged between the citizen and the suspect. Ofc. Hosmer had no cover at the time he encountered the suspect. This shooting occurred in the County of Sacramento and was investigated by the Sacramento Sheriffs Department.

**Recommendations:**

None

  
[REDACTED]

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City of  
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Police Department

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**Report Number: 2003-75542**

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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 constitute an unwarranted invasion of personal privacy (Cal. Gov. Code § 7927.700; see also *City of San Jose v. Superior Court* (1999) 74 Cal.App.4<sup>th</sup> 1008)

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 § 1; Cal. Pen. Code § 832.7(a); Cal. Evid. Code § 1040)

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, the disclosure of which would reveal or compromise official law enforcement security and investigative procedures (Cal. Gov. Code §§ 7923.600(a) & 7923.615(a))

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))

Records or information from separate or prior investigations not independently subject to disclosure (Cal. Pen. Code § 832.7(b)(4))

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*The Mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property, solve neighborhood problems, and enhance the quality of life in our City.*