

MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



DATE: December 29, 2003
REF: PSU 12-01

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 W03-10, W03-11

A shooting review was held on Wednesday, December 17, 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:

Deputy Chief Segura
 Captain Mandalla
 Captain Parker
 Captain LaCosse
 Lt. Nenneman
 Lt. Schneider
 Lt. Campas
 Lt. Sweeney
 Lt. Hahn
 Lt. Haynes
 Sgt. Quinn
 Sgt. McCloskey
 Ofc. Chan
 Terry Murray

Deputy Chief Braziel
 Captain Shiraishi
 Captain McCarthy
 Captain Valenzuela
 Lt. Westin
 Lt. Matthes
 Lt. Dowden
 Lt. Sakanye
 Lt. Bernard
 Lt. Fong
 Sgt. Enriquez
 Sgt. Harvey
 Ofc. Anglessey
 Larry Nelson

Acting Deputy Chief Schiele
 Captain Johnson
 Captain Somers
 Captain Mitchell
 Lt. Bray
 Lt. Maccoun
 Lt. Tatosian
 Lt. Schiele
 Lt. Moir
 Sgt. Hargadon
 Sgt. Winton
 Ofc. Wann
 Det. Sledge

The following are the recommendations and findings for this shooting:

W03-10

JUSTIFIED

Officer(s) involved
Sgt. Ford/Ofc. Malmquist

Presenter
Sgt. Quinn

Division Commander
Captain Parker

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On 10-1-03, Sergeant Ford and Officer Malmquist responded to Rio Cazadero High School regarding a student armed with a gun. The officers arrived, along with an SSD deputy. The suspect exited a classroom with a shotgun. The suspect pointed the shotgun in the direction of the officers. All three officers fired their weapons at the suspect. The suspect was struck and subsequently taken into custody. A school administrator who was near the suspect sustained a gunshot wound to his right ankle (unknown if a direct hit or a ricochet round). The suspect was treated for his wounds and subsequently booked in jail.

Recommendations:

None

Ok. A. Wright

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MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



DATE: January 9, 2004
REF: PSU 01-02

TO: Ofc. Gary Malmquist

FROM: David Hargadon, Sergeant
Professional Standards unit

RE: Officer Involved Shooting - Review Disposition OIS# W03-10

The department reviewed the shooting incident that occurred on October 1, 2003. We found that your actions were justified. This review is separate from the review conducted by the District Attorney's Office.

I want to personally commend you for your courageous actions. Please feel free to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "David Hargadon". The signature is stylized with a large, looped "D" and a long, sweeping "H".

David Hargadon, Sergeant
Professional Standards Unit
433-0900

MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



DATE: January 9, 2004
REF: PSU 01-01

TO: Sgt. Cordell Ford

FROM: David Hargadon, Sergeant
Professional Standards unit

RE: Officer Involved Shooting - Review Disposition OIS# W03-10

The department reviewed the shooting incident that occurred on October 1, 2003. We found that your actions were justified. This review is separate from the review conducted by the District Attorney's Office.

I want to personally commend you for your courageous actions. Please feel free to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Hargadon".

David Hargadon, Sergeant
Professional Standards Unit
433-0900



OFFICE OF THE
DISTRICT ATTORNEY

SACRAMENTO COUNTY

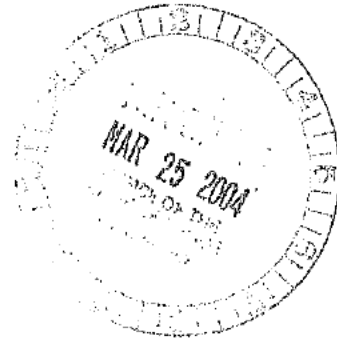
JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY

March 22, 2004

Albert Najera, Chief of Police
Sacramento Police Department
5770 Freeport Boulevard
Sacramento, CA 95822

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



Re: Officer-involved shooting: SPD 03-86063
SSD 03-74165

Shooting officers: SPD Sgt. Cordell Ford #3096
SPD Officer Gary Malmquist #777
SSD Deputy Stanley Swisher #1206

Persons shot: Mario Michael Rodríguez (suspect); DOB: 06-23-1984

[REDACTED]

[REDACTED] (victim)

Vice Principal, Rio Cazader High School

Gentlemen:

In the above referenced matter, I have received the reports from your departments; including the associated videos and photographs; and the reports of District Attorney Investigators Tina Tanghetti, Rich Gardella and Derrick Greenwood. Having reviewed the materials, I conclude that the shooting of Mario Rodriguez was justified and that of [REDACTED] was accidental.

SPECIAL INVESTIGATIONS

P.O. Box 749 * 901 G Street * Sacramento, California 95814
(916) 874-5897 FAX (916) 874-8238

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FACTS

On October 1, 2003, at 8:49 a.m., the Sacramento Police Communications Center received a 911 emergency call regarding a student on campus with a shotgun. The school was identified as Rio Cazadero Continuation High School, 7825 Grandstaff Drive, and the armed student as Mario Rodriguez.

Rodriguez had entered classroom #2 carrying an athletic bag that contained a loaded shotgun and an imitation chrome handgun. A teacher, [REDACTED] and 8 students occupied the classroom. Rodriguez removed the shotgun from the athletic bag and appeared very distraught as he placed the shotgun to his head stating, "Its over, it's all over". [REDACTED] attempted to de-escalate the situation but this agitated Rodriguez even more. As Rodriguez paced the room, his actions included pointing the shotgun in the direction of [REDACTED] placing the imitation handgun to his head, and placing the shotgun under his chin. According to the witnessing students, Rodriguez pulled the trigger on the shotgun but no round was discharged. Many of the students described Rodriguez as acting in a threatening manner by aiming the shotgun in the direction of the students. Fearing Rodriguez, the students moved to one corner of the room. As the situation continued to escalate, Rodriguez pulled the shotgun ejecting a live round from the chamber of the weapon. He picked up the round and placed it into his pocket then ordered [REDACTED] and the students out of the classroom.

Classrooms #1 and #2 share a common collapsible wall that divides the interior of the structure into four separate classrooms. A student in the adjoining classroom heard the commotion in classroom #2 and was able see Rodriguez in classroom #2 while peering through a small opening in the partition. He alerted his teacher and fellow classmates who evacuated classroom #1 and ran to the administration building. Employees in the administration office then notified law enforcement.

In response to the information provided by students, Vice Principal [REDACTED] responded to classroom #2. He knew Rodriguez and hoped to de-escalate the situation. From a position outside the open doorway, [REDACTED] engaged Rodriguez in conversation but Rodriguez refused to disarm and threatened suicide. [REDACTED] a retired Los Angeles Police officer, was concerned for the safety of Rodriguez and that of responding law enforcement personnel. [REDACTED] could hear the sirens of the responding police vehicles as he pleaded with Rodriguez to disarm. Realizing that the police had arrived, Rodriguez pushed past [REDACTED] through the only doorway out onto the classroom entry ramp. As Rodriguez exited, [REDACTED] grabbed him from behind in an attempt to pull him back into the classroom. Rodriguez, who is very large in stature, was able to pull away from [REDACTED]

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At this point, Sacramento County Sheriff's Deputy Swisher, a school resources officer for Valley High School, had taken up a position at the northwest corner of the portable building that housed classroom #2. Deputy Swisher observed Rodriguez exit classroom #2 with the shotgun moving past [REDACTED] who engaged Rodriguez in a struggle for the shotgun. Deputy Swisher heard gunshots and realized Sacramento Police Officers Ford and Malmquist had joined him in the area of the portable classroom. [REDACTED] immediately jumped clear of Rodriguez who had elevated the shotgun in the direction of the involved officers. Deputy Swisher fired his gun at Rodriguez, as did Officers Ford and Malmquist. The wounded Rodriguez fell onto his backside and was quickly handcuffed. The shotgun was recovered with the safety off and live rounds in the chamber and magazine tube. The imitation handgun was located on the ramp near the shotgun.

Sgt. Ford reported that he had observed Rodriguez pull free from [REDACTED] with the shotgun and aim it in his direction. Sgt. Ford ordered Rodriguez to drop the weapon but he failed to comply. Fearing for his safety and that of other persons in the area, Sgt. Ford moved in a westerly direction and began firing his weapon at Rodriguez. As Sgt. Ford reached a support beam to use as cover he fell to the ground. Rodriguez remained standing and was pointing the shotgun in the direction of Sgt. Ford. Sgt. Ford took aim and fired again at Rodriguez who then fell to the ground.

Sacramento Police Officer Malmquist reported he and his partner, Officer Ryan Elmore, responded to the school after hearing the radio call of an emergency involving an armed student. The officers went through the administration building into a courtyard that provided a view of classroom #2. Officer Malmquist was able to see Deputy Swisher and Sgt. Ford in the area of the classroom/courtyard. Elk Grove School District Police Sgt. Robert Coleman was at the center pillar with Sgt. Ford. Officer Malmquist saw Rodriguez exit the classroom with a shotgun in his right hand aiming the weapon directly at Deputy Swisher. At this point, [REDACTED] grabbed Rodriguez in a hold from behind but Rodriguez was able to dislodge the vice principal, forcing him to the ground. [REDACTED] landed on the top of the ramp with his back positioned against the metal railing associated with the ramp.

Officer Malmquist heard gunshots coming from behind his position. He observed uniformed police officers near the administration building with their guns drawn. Rodriguez who was still upright turned toward Officer Malmquist with the shotgun. As Rodriguez elevated the shotgun Officer Malmquist began firing his handgun at Rodriguez and heard additional shots being fired from all directions. Officer Malmquist delivered two volleys of gunfire before Rodriguez fell to the ramp in front of classroom #2.

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Officer Malmquist stated he fired at Rodriguez fearing for his safety and that of [REDACTED] and the other officers who were in the line of fire. Officer Elmore reported that he did not discharge his handgun because Officer Malmquist was in his direct line of fire, though he feared for his safety and the safety of all of the persons in the area.

Vice Principal [REDACTED] was taken to UCD Medical Center for treatment of a gunshot wound to his ankle. A round discharged by the officers during the course of the incident had struck him. He suffered minor injuries to his ankle and was released from the medical center the same day. No other students were injured or any of the involved officers. Twenty-five rounds were fired by responding officers with three striking Rodriguez. His injuries were not life threatening.

Rodriguez is charged with multiple criminal violations: attempted murder (3 cts.), assault with a firearm upon a peace officer (4 cts.), assault with a deadly weapon upon a school employee (2 cts.) and possession of a firearm on a school campus (1 ct.).

ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self defense or defense of another. In addition, a peace officer may use deadly force in order to apprehend a person who has committed a dangerous felony (i.e., one involving the threatened infliction of serious physical harm). Penal Code Sections 196 and 197. Tennessee v. Garner (1985) 471 U.S.1; Kortum v. Alkire (1977) 69 Cal. App. 3d 325. California law permits the use of deadly force if the person actually and reasonably believed he or another was in imminent danger of death or great bodily injury. CalJic 5.51.

Under these principles, each of the officers clearly had the right to act in defense of themselves and Vice Principal [REDACTED]. Rodriguez exited the classroom and aimed the gun in the direction of the officers at the scene. Once he failed to comply with the orders to abandon the gun, the officers had no choice but to fire their weapons in self defense or defense of others (or a combination of both). Each officer actually and reasonably believed, at the time they fired their weapons, that Rodriguez intended to cause death or serious physical harm to another person.

The actions by the involved officers were not intended to result in an injury to [REDACTED]. Therefore, his resulting gunshot injury was an accident. A person can be criminally liable for an act only when there exists the necessary criminal intent or criminal negligence (Penal Code Section 26; CalJic 4.45). Under the facts of this case, the officers actions were reasonable and necessary in self defense and the defense of others against a subject who was armed with a lethal

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Sgt. Craig Hill
March 22, 2004
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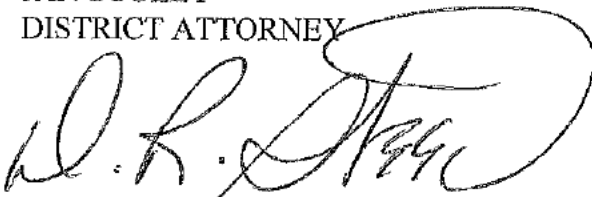
weapon and acted in a threatening manner. Unfortunately, an errant round fired by the officers injured [REDACTED]

CONCLUSION

Finding the shooting of Mario Rodriguez justified, we will take no further action in the matter. Thank you for referring the case for our review.

Very truly yours,

JAN SCULLY
DISTRICT ATTORNEY

A handwritten signature in black ink, appearing to read "D. R. Steed", with a large, sweeping loop at the end.

DONALD R. STEED
Supervising Deputy District Attorney

cc: SPD Sgt. Cordell Ford
SPD Officer Gary Malmquist
SSD Deputy Stanley Swisher
Don Casimere, Director, Office of Police Accountability

KATHERINE LESTER
Chief of Police

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Sacramento, CA 95822-3516

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Report Number: 2003-86063

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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)); 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).

Sacramento Police Department
Professional Standards Unit
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