



OFFICE OF THE
DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY

October 12, 2004

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

Re: Officer-involved shooting: Case No. SPD 04-19842
Shooting officer: SPD Officer Todd Edgerton #0826
Person shot: Roy Curtis Gomes [REDACTED]
Date of incident: 3/5/2004

Dear Chief Najera:

In the above referenced matter, I have received the reports by your department; including the associated audio and video tape recordings and photographs; West Sacramento Police Report No. 04-1938; Yolo County Sheriff's Department Crime Report No. 00-1394; the reports of Sacramento County District Attorney Investigators Don Cox and Tina Tanghetti; and Coroner's Report No. 04-01223. Having reviewed the material, I conclude that the shooting of Roy Curtis Gomes was lawful.

Factual Summary

On March 5, 2004, at 5:28 p.m., West Sacramento Police Officer George Hunter observed a subject later identified as Roy Curtis Gomes walking on the railroad tracks near the Sacramento River and the I Street Bridge. Gomes was holding a 40 ounce glass beer bottle that appeared to contain liquid. Officer Hunter, who was in a marked police unit and wearing a police uniform, exited his vehicle and approached Gomes to discuss his drinking in public that is a violation of West Sacramento City Municipal Code section 9.08.020.

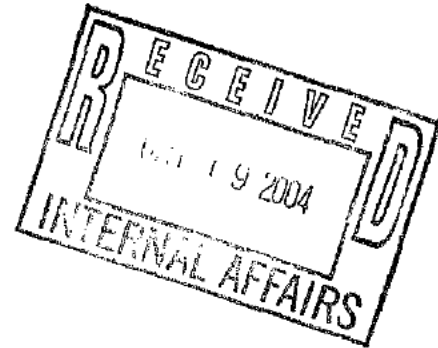
As the officer approached, Gomes stated, "I'm not gonna go with you." Officer Hunter told Gomes that he needed to speak with him regarding the drinking of beer. Gomes responded with,

SPECIAL INVESTIGATIONS

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

Capt. House

RECEIVED
OCT 15 2004
OFFICE OF THE
CHIEF OF POLICE
SACRAMENTO



"Fuck you. You killed my family. I'm not gonna go with you." Gomes who was clutching a backpack and the glass beer bottle turned and began walking away from Officer Hunter. Officer Hunter notified police communications of the encounter and requested assistance.

Officer Hunter followed Gomes as he walked eastbound on the I Street Bridge, across the Sacramento River towards the train station. As he walked, Gomes would occasionally turn and make comments to Officer Hunter such as "Fuck you; you guys killed my family." After walking a short distance, Gomes broke into a run in defiance to Officer Hunter's orders to stop. As he ran, Officer Hunter recalled Gomes throwing his backpack to the ground and continuing to state he was not going to comply with the officer's orders. Based upon the aggressive and bizarre behavior of Gomes, Officer Hunter requested Code-3 cover via his handheld radio.

As the foot pursuit continued, Gomes would stop and throw glass bottles and rocks found on the ground at the officer as he continued eastbound into the City of Sacramento. The officer deflected the objects with his hands and backside. As the events unfolded, Officer Hunter updated radio communications of his position including the fact that Gomes had assaulted him. Officer Hunter instructed radio communications to notify the Sacramento Police Department of the ongoing event.

At one point, Officer Hunter recalls Gomes turning around and advancing towards him. When Gomes was within 15 feet, Officer Hunter directed pepper spray into his face resulting in Gomes turning around and continuing to run across the bridge in the direction of the train station. Officer Hunter began falling back due to the pace of the pursuit.

After reaching the east end of the bridge, Gomes stopped and threw another glass bottle and rocks at Officer Hunter. Once again, the officer was able to deflect the objects thrown by use of his arms. Suddenly, Gomes charged at him but reversed direction when the officer displayed his baton. Gomes continued to move towards the train station occasionally stopping to throw rocks at the officer. Officer Hunter slowed his pace when he observed two Sacramento Police Officers on bicycles approach Gomes with their guns drawn.

The two bike officers, Todd Edgerton and Isaac Richard Knuttila, confronted Gomes who had stooped on the rail tracks north east of the Sacramento Amtrak Station. West Sacramento Police Officer Jason Winger arrived at the scene and deployed his Taser at Gomes striking him in the chest. Gomes removed the darts and appeared unaffected by the weapon. West Sacramento Police Officer Jason Fortier arrived at the scene after the Sacramento Police Officers had confronted Gomes in the rail yard. He deployed a second Taser round when Gomes failed to comply with orders to go to the ground and produced a knife. There was no apparent effect on Gomes from the second Taser.

Sacramento Police Officer Edgerton stated that he saw Gomes remove a knife from his waist area then move into a crouch with the knife in his left hand. Officers ordered Gomes to drop the knife numerous times, but instead he threw a rock at an officer then transferred the knife to his right hand. He then cocked his right hand and threw the weapon as Officer Edgerton fired three rounds from his 40 caliber Sig-Sauer semi-automatic handgun. Gomes fell to the ground as the knife passed by the head of Officer Winger.

Officer Edgerton told investigators that he fired his handgun because he believed Gomes was intent on injuring or killing an officer. Another concern was that Gomes was within a short distance of the rail station platform where a large group of people were gathered. Under the circumstances, the officer believed Gomes posed a significant threat to these people if he reached the platform.

Officer Knutilla's description of the incident was consistent with that of Officer Edgerton and the other officers. He reported that Gomes, who was surrounded by all of the officers, removed the knife from waist area with his left hand while holding a rock in his other hand. All of the officers were screaming at Gomes to put the knife down but instead of complying Gomes stated, "Fuck you, I'm going to kill you." Gomes stopped moving towards the officers dropping to a knee as if acquiescing. After a momentarily pause, Gomes stood up and assumed an aggressive stance. Officer Winger fired his Taser striking Gomes in the chest with no immediate effect. A second Taser was fired at Gomes by Officer Fortier striking him in the chest but the darts fell out. In response, Gomes threw a rock at the officers. Gomes transferred the knife to his right hand and began a throwing motion when Officer Knutilla heard three gunshots. Gomes was within 10 to 15 feet of the officers when the shots were fired. Officer Knutilla saw the knife pass by the head of Officer Winger who was in the process of reloading his Taser.

Gomes was handcuffed and found to have suffered multiple gunshot wounds to the chest. Within minutes, medical personnel responded and transported Gomes to UC Davis Medical Center. At 4:24 pm., March 5, 2004, UC Davis Medical Center personnel announced that Gomes had died during surgery.

Crime scene investigators examined the area of the incident and located three expended 40 caliber Winchester casings, the knife thrown by Gomes and three taser cartridges. The location of the recovered physical evidence was consistent with the statements made by witnesses and the involved officers. Investigators determined that three .40 caliber Winchester rounds were missing from the twelve round magazine removed from Officer Edgerton's firearm after the incident.

Pathology/Cause of Death

Sacramento County Forensic Pathologist Stephany Fiore, M.D., performed the autopsy on Roy Curtis Gomes. She diagnosed the cause of death as multiple gunshot wounds that involved the chest, right flank and left back. Gomes had marks consistent with Taser darts on the left arm and chest. Postmortem toxicology of chest blood established the presence of benzoylecgonine (cocaine metabolite) and blood ethanol level at (0.06%) at the time of death.

Applicable Law and Analysis

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. Additionally, an officer who had reasonable cause to believe a person has committed a public offense or is a danger to themselves or others may use reasonable force to affect arrest or detention, to prevent escape or to overcome resistance. (Tennessee v. Gardner (1985) 471 U.S. 1; Graham v. Connor (1989) 490 U.S. 386; Kortum v. Alkrie (9177) 69 C.A. 3d 325; CALJIC 9.25). An officer who attempts to arrest or detain a person need not retreat or desist from his efforts by reasons of the resistance or threatened resistance of the person; nor shall the officer be deemed an aggressor or lose right to self-defense by use of reasonable force. (California Penal Code section 835a).

In other words, 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 C.A. 3d 981,985; CALJIC 9.26, 9.27). Gomes was legally obligated to submit to that arrest and not resist. The evidence establishes that Gomes did not submit to arrest, but aggressively resisted and escalated the level of violence. The officers were legally authorized to meet Gomes' resistance.

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. Officer Edgerton was forced to make such a judgment. Given the facts and circumstances known to him at the time, the use of deadly force was objectively reasonable.

Officer Edgerton and other assisting officers had probable cause to arrest Gomes based upon his assaultive behavior (P.C. 243, 245(b) and his failure to comply with the officers' commands (P.C. 148a). Officer Edgerton used that degree of force he believed to be necessary and which would appear to a reasonable person, in the same or similar circumstance, to be necessary to prevent death or great bodily injury to a fellow officer. Gomes had acted bizarrely, displayed determined aggressive behavior and refused to comply with the officers' instructions. He struck Officer Hunter with glass bottles and large rocks as he fled from West Sacramento across the

Albert Najera, Chief of Police

October 12, 2004

Page 5

river towards the busy train station in the City of Sacramento. Three West Sacramento Officers (Hunter, Winger, and Fortier) and the two Sacramento City Police Officers, Edgerton and Knutilla surrounded Gomes. He continued to display aggressive behavior by throwing rocks at the officers and refusing to go to the ground as requested. Officer Winger discharged a Taser at Gomes, but it failed to provide any meaningful effect. As Officer Winger knelt down to reload the Taser, Gomes retrieved a knife from his waist area, crouched and was in the process of throwing the weapon when Officer Edgerton fired three rounds from his semi-automatic handgun at Gomes. The knife narrowly missed striking Officer Winger's head.

California law permits the use of deadly force if the officer actually and reasonably believed he or others are in imminent danger of death or great bodily. (CALJIC 5.51,5.32). Officer Edgerton actually and reasonably believed at the time he fired his weapon, that Gomes intended to cause death or serious bodily harm.

Conclusion

Applying the controlling legal standards to the factual record in this case, we find that Officer Edgerton's actions were reasonable and necessary in self-defense against a subject who was armed with a lethal weapon and acted in a threatening manner. Finding the shooting lawful we will take no further action in this matter.

Very truly yours,

JAN SCULLY
DISTRICT ATTORNEY

A handwritten signature in black ink, appearing to read "D. R. Steed", is written over the printed name of Donald R. Steed.

DONALD R. STEED
Supervising Deputy District Attorney

cc: Todd Edgerton, Sacramento Police Department
David Mastagni, Attorney at Law
Chief Dan Drummond, West Sacramento Police Department
Don Casimere, Director, Office of Police Accountability

MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



DATE: May 20, 2004
REF: PSU 05-04

TO: Albert Nájera
 Chief of Police

ATTN: Steve Segura, Deputy Chief
 Office of Investigations

Brian Lonie, Captain
 Internal Affairs

FROM: David Hargadon, Sergeant
 Professional Standards Unit

RE: Shooting Review Disposition W04-03, ICD 04-01

A critical incident review was held on Wednesday, May 5, 2004. 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 McCarthy
 Captain Valenzuela
 Lt. Nenneman
 Lt. Matthes
 Lt. Gregson
 Lt. Tatosian
 Sgt. Donat
 Ofc. Wann
 Claudia Evans

Deputy Chief Braziel
 Captain Lonie
 Captain Somers
 Lt. Gardner
 Lt. Westin
 Lt. Fong
 Lt. Sweeney
 Lt. Bernard
 Sgt. Quinn
 Ofc. De Leon
 Joe Crady

Captain Schiele
 Captain Parker
 Captain Johnson
 Lt. Sakauye
 Lt. Bray
 Lt. Dowden
 Lt. Beermann
 Sgt. Hargadon
 Sgt. McCloskey
 Ofc. Anglessey
 Larry Nelson

The following are the recommendations and findings for each shooting:

W04-03

JUSTIFIED

Officer(s) involved
 Ofc. Edgerton

Presenter
 Sgt. McCloskey

Division Commander
 Captain Mandalla

On March 5, 2004, at approximately 1530 hours, Officer Edgerton and Officer Knuttila assisted West Sacramento Police officers who were chasing a suspect wanted for 245 PC. The suspect was later found to be a parolee at large and was to be considered armed and dangerous. Officers from both agencies confronted the suspect near the Amtrak Station (401 I Street). The suspect threw a rock at the officers, at which point the suspect was tased (with no effect). The suspect then took out a knife and threw it at the officers. Fearing for his life and the life of others, Ofc. Edgerton fired three rounds at the suspect. The suspect was struck all three times and subsequently died.

Recommendations:

None

04-
19842
OIS.

City of
SACRAMENTO
Police Department

KATHERINE LESTER
Chief of Police

5770 Freeport Blvd., Suite 100
Sacramento, CA 95822-3516

(916) 808-0800
Fax: (916) 808-0818
www.sacpd.org

Report Number: 2004-19842

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 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
916-808-3790
spdpsu@pd.cityofsacramento.org

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.