



OFFICE OF THE
DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY

May 30, 2007

Albert Najera, Chief of Police
Sacramento Police Department
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

RE: Officer-Involved Shooting: Case No. 06-248581

Shooting Officers: Joshua Dobson, # 393
John Lightfoot, # 560

Person Shot: Venorrias Edwards Barnes (DOB 2/10/47)
[REDACTED]

Dear Chief Najera:

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above referenced Officer involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We address only whether or not there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Venorrias Barnes. For the reasons set forth below, we conclude that the shooting was lawful.

Written reports and other documentary items were reviewed. These consisted of: Sacramento Police reports, video and audio recordings, Sacramento County Coroner's Report of Autopsy and Findings # 06-03841, and reports by District Attorney Investigators.

FACTUAL SUMMARY:

On July 17, 2006 at approximately 3:57 a.m., the Sacramento Police Communication Center received a citizen complaint stating gunshots were heard coming from the back yard of [REDACTED] Eleanor Ave. The caller identified the occupant of the residence as "Candy" Barnes, a black male

SPECIAL INVESTIGATIONS

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adult. Uniformed patrol officers Steven Thomson #364, Benjamin Spencer # 692, Roy Hastings #823 and Sgt. Steven Oliveira #3075 responded to the area with arrival at 4:12 a.m.

The officers contacted the complainant [REDACTED], a resident at [REDACTED] Eleanor Ave., who advised that his neighbor was acting strange and had discharged rounds from a handgun while standing outside of his residence. [REDACTED] identified the shooting neighbor as Candy Barnes and the residence as [REDACTED] Eleanor Ave. Through police records, the officers were able to identify the subject as a Venorrias Edwards Barnes, a 59 year old adult. The uniformed officers went to the [REDACTED] Eleanor Ave. residence and found the front door standing open with the exterior metal security door shut. No lights were on inside nor did the officers receive a response when they yelled for the occupant(s) to exit. Police Communications operators, who had located a phone number for the residence, called the number but did not receive a response. There was no other activity in or around the residence or dark the neighborhood at that time.

The officers concluded that a person associated with the [REDACTED] Eleanor Ave residence may have violated Penal Code section 246.3 (discharging a firearm in a grossly negligent manner). Due to the lack of additional information the officers cleared the call at 4:50 a.m. taking no further action. Patrol Sgt. Oliveira remained in his marked police vehicle parked a short distance away from the [REDACTED] Eleanor Ave. residence to maintain surveillance.

At approximately 5:00 a.m., Sgt. Oliveira heard the slamming of a door and the firing of gunshots coming from the area of [REDACTED] Eleanor Ave. Within minutes, Police Communications operators notified the sergeant that another citizen had called stating that Barnes had come out of his house, discharged a round from a firearm then returned to the interior of his residence. Sgt. Oliveira requested the return of additional officers as he walked up to the front of the Barnes residence. As he approached, he heard five gunshots discharged in rapid succession coming from the rear of the residence. Police Communications advised that a second neighbor called stating that Barnes was firing a gun in the rear yard wearing only shorts. Sgt. Oliveira directed arriving officers to establish a perimeter and at 5:18 a.m. requested the SWAT (Special Weapons Assault Team) and Hostage Negotiation Team (HNT) be called. A command center was established in the parking lot of a nearby church.

SWAT Team leader, Sgt. Andrew Miller #3070, reported that he received a call-out at approximately 5:15 a.m. on July 17, 2006. He contacted his team and immediately responded to the command post in the vicinity of [REDACTED] Eleanor Ave. After a briefing by Sgt. Oliviera, he positioned team members, including Officers John Lightfoot #560 and Joshua Dobson #393, in strategic locations around the Barnes residence. Two occupied SWAT vehicles were position near the front of the Eleanor residence with armed officers positioned in and around the vehicles.¹ Officers Lightfoot and Dobson were two of the officers designated by Sgt. Miller as "shooters" if someone exited the residence and presented a dangerous threat. These officers took positions which afford them a clear view of the front door of the residence. Other officers secured positions of cover near the two SWAT vehicles and away from the immediately vicinity of the residence.

¹ CSI Diagram #5; Photographs A (Peace Keeper) # 8571 & B (Armed vehicle) # 6155.

Efforts to talk to Barnes were ongoing by telephone and through a public address system during the stand-off. HNT Detective (Det.) Denise Phillips #253 was able to contact Barnes by telephone in the residence. Barnes spoke rapidly, slurring his words as he spoke, and at times was incoherent before ending the call. Det. Phillips called again and was able to engaged Barnes in further conversation asking him to stop firing his weapon. Barnes spoke in a very loud and fast tone before terminating the second call. Both conversations lasted only minutes and further attempts to make telephone contact failed.

A public address system was activated in front the Barnes' residence encouraging him to exit peacefully. After members of his family arrived at the scene, officers made and played tape recorded messages from of his brother and son. Significant efforts were made by law enforcement to de-escalate the situation but were met either by silence or obscenities from Barnes who would occasionally walk out onto the front porch of the residence.

At approximately 6:58 a.m., Officer Steven Walters #453 who was positioned to observe the rear of the Barnes residence advised other team members by radio that Barnes had exited the rear door of the home, armed with a long gun and fired a round into the air before walking back into the residence. Minutes later, the front door of the residence opened and a gunshot was heard. Sgt. Miller, who was standing behind the SWAT Peace Keeper vehicle, saw Officer Lightfoot fire his weapon towards the front of the residence then heard shots being fired from behind his position. He determined that the rounds were fired by Officer Dobson. Sgt. Miller told investigators that he was not able to see Barnes at the front door of the residence from his vantage point when the shots were fired.

After the arrival of the SWAT team, Officer Hastings was positioned on the north side of the Barnes residence which afforded him a clear view of the front porch of [REDACTED] Eleanor Ave. along with Patrol Officer Prince #448. At the time of the shooting, Officer Hastings heard a "commotion" then a gunshot from a rifle or shotgun coming from the front porch. He then saw Officer Lightfoot fire two or three rounds towards the "suspect" (Barnes), who was standing on the front porch. Officer Lightfoot was positioned near the doors of a SWAT vehicle parked in the street near the front of the [REDACTED] Eleanor Ave. It appeared to Officer Hastings that another SWAT officer(s) located behind Officer Lightfoot fired towards the residence. After a brief pause, he heard what sounded like an additional rifle or shotgun being fired from the front porch of Barnes' residence, then, another volley of shots was fired by SWAT officers. Officer Hastings stated that from his position he was unable to see who was on the porch firing the rifle or shotgun during this exchange. Officer Hastings did not fire a weapon during the incident.

Patrol Officer Christian Prince #448 reported that he was stationed near a blue minivan just west of Barnes residence along with Officer Hastings. He recalls Officer Walters, who was stationed at the rear of Barnes residence, reporting that Barnes had fired a gunshot from a long gun. He then heard pellets hitting a nearby house and assumed that Barnes had fired a shotgun. Before the exchange of gun fire with SWAT team members, Officer Prince saw Barnes exit the front door of his residence. He then heard a "boom" coming from the residence, ducked and while looking directly at the SWAT vehicle parked nearby observed shots being fired by members of the

SWAT team. He was unable to actually see the officer or officers who were firing from his point of view. Officer Prince stated that he heard the loud "boom" come from the residence before the SWAT team members began firing towards the house.

Officer Adam Green #833 reported that he was standing near the SWAT armored vehicle at the time of the exchange of gunfire between Barnes and the SWAT team members. The officer heard a loud gunshot come from the front porch of the [REDACTED] Eleanor Ave. residence which sounded like rifle or shotgun. He then heard gunshots being fired from Officer Dobson's position and from a weapon being fired near the left side of the SWAT Peace Keeper vehicle. After a brief pause, Officer Green heard a few more shots being fired by SWAT team members and then observed Barnes move back into his residence and shut the front door. He was certain that he heard the first shot being fired from Barnes' residence.

After Barnes returned to the interior of the residence, the officers were able to hear noise and, at times, see movement inside of the front of the residence before more than an hour of silence. Based upon Barnes aggressive actions and no evidence to indicate he was incapacitated, an Arwen robot was used to forcibly gain access to the residence through the front door. Once inside, the robot's video camera revealed the motionless body of Barnes lying on the living room floor with a shotgun nearby.

At approximately, 10:13 a.m., SWAT team members entered the residence and determined that Barnes was dead. He was wearing sweat pants, a blue sports jersey and no shoes. Broken glass and damaged furniture was found near his body indicating that Barnes had collapsed in the living room near the fireplace after being shot. Barnes was the only person found inside of the residence.

PHYSICAL EVIDENCE:

Crime Scene Investigators (CSI) examined the interior and exterior of the residence and the general area where the incident took place. A video recording of the scene was made and photographs taken identifying the location of evidence and condition of the scene. Investigators found bullet fragments and blood spatter on the patio near the front door of the residence. On the living room floor near the front door investigators recovered a loaded double barrel 12 gage shotgun with two *live* cartridges. The decedent's body was located near the fireplace approximately 11 feet from the shotgun.

In the master bedroom, a Smith & Wesson .38 caliber revolver was found underneath the bed with (5) live rounds and (1) expended casing in the cylinder. One *spent .12 gage shotgun* casing was recovered from the floor of this room. On top of the bed, were (12) live shotgun rounds. Inside the closet investigators discovered a .12 gage shotgun and loose .20 gage shotgun rounds in a cloth case. Additional .12 gage shotgun rounds were found on a computer table. In the bedroom night stand, was a .20 gage live round, (1) spent 30-30 caliber rifle casing, live 30-30 caliber rifle rounds and a 32 caliber live round for a handgun. In the kitchen, investigators located .38 caliber live rounds and spent casings on the floor and ledge of a buffet.

Even though .20 gage shotgun rounds, live and spent 30-30 caliber cartridges and live .32 caliber cartridges were recovered the guns necessary to fire these types of rounds were not found. The only blood was located in the living room near Barnes' body, which may indicate he did not leave the living room before succumbing to his injuries after he was shot. In the backyard, investigators found shotgun wading on top of a Chevrolet pickup truck and shotgun pellet damage to a camper shell located on a Toyota truck. This evidence is consistent with the discharge of the shotgun in the rear yard as reported by Officer Walters.

Investigators found the metal security door on the front porch to be open and damaged from rounds fired by the officers.² This metal door covered the actual front door and was attached to the door frame in such a way allowing it to swing open. District Attorney Investigator Garverick discovered markings on the outside of the metal door consistent with the door striking the metal security window located behind it when opened. The metal door was heavy and swung freely until it collided with the metal bars covering the window.³

CSI photographs revealed the presence of an overturned metal chair, commonly referred to a "clam shell" chair, located within a few feet of the metal security door on the concrete porch. A second metal chair was also located on the porch in an upright position but further away from the front door. No physical evidence and/or damage to the SWAT vehicles was found to indicate that Barnes had, in fact, fired a weapon from the front porch at the time the officers Lightfoot and Dobson fired their weapons.

SHOOTING OFFICERS' STATEMENTS

Officer Lightfoot

At 1:45 p.m., July 17, 2006, Detective Eric Schneider #701 interviewed Officer Lightfoot at the Sacramento Police Department. Officer Lightfoot, a seven year sworn member of the Sacramento Police Department, had received a SWAT Team call-out at his home and responded to the [REDACTED] Eleanor Ave. scene. The nature of the call was a barricaded subject at the [REDACTED] Eleanor Ave location with a Hostage Negotiation Team enroute.

Upon arrived he "suited up" in police SWAT gear and armed him with a fully loaded MP-5 automatic machine weapon.⁴ He was informed that the resident of [REDACTED] Eleanor Ave. had been seen by neighbors discharging a firearm and shots had been heard by responding patrol officers.

Officer Lightfoot was deployed to the Peace Keeper SWAT vehicle parked in front of the residence along with other members of the team. He was assigned the responsibility of providing lethal cover for other members of the team. He maintained his position while attempts were under way to make contact with the occupant by the negotiation team. He recalled voice commands were being directed towards the residence as the police radio traffic indicated that negotiations were being attempted. Several times Officer Lightfoot stated he saw Barnes open the

² CSI Diagram #15.

³ Photograph C.

⁴ The MP-5 fired Speer 9mm Luger rounds.

front door and the outer security door, stand in the threshold, and yell words that were incoherent.

At approximately 6:50 a.m., Barnes stood in the doorway cursing at the officers while holding a hammer in his hands. He was very upset stating "I'm gonna blow your fucking heads off" while looking directly at the Peace Keeper vehicle. Officer Lightfoot was concerned about the threat based upon the demeanor of Barnes and knowing that he was armed and willing to fire his weapon. Shortly thereafter (6:58 a.m.), he monitored radio traffic stating that Barnes had fired a round from a long gun while standing in the backyard. This caused the officer further concern since the Peace Keeper was a lightly armored vehicle incapable of protecting officers from the discharge of a rifle round.

At 7:47 a.m., while maintaining a position at the Peace Keeper vehicle, Officer Lightfoot saw the front door open and observed Barnes, who wearing a blue jersey, move onto the porch. He placed a "rifle" to his right shoulder and pointed the firearm directly at the officers located near the armored vehicle parked next to the Peace Keeper. According to Officer Lightfoot, the officers had minimal cover and he feared they were about to be shot. He reported seeing what he believed to be a discharge from the Barnes' weapon that was aimed at the officers since he heard a "pop" and saw "smoke" at the end of the barrel. Believing Barnes had fired at the officers, Officer Lightfoot stated he fired his MP-5 at the subject three or four times in defense of his fellow officers.

After Officer Lightfoot fired his weapon, he recalls Barnes turning and aiming his weapon directly at him. The officer stated "...the barrel was pointing right at me. I was looking right down the barrel". When asked to describe his feelings, Officer Lightfoot stated:

"And I actually remember tensing up because I thought I was gonna get hit. I was tensing up and I? I think I moved to the left...and then I shot two or three more rounds. At that point I really expected to be hit. Um, cause I had just seen him shoot and now I was looking pretty much directly down the barrel...It was pointed right at me".

Fearing for his life, Officer Lightfoot stated he fired two or three more rounds at the subject. Barnes fell backwards into the doorway moving in the direction of the interior of the residence as he rolled to the floor slamming the front door once inside. The officer heard activity inside of the residence for several minutes after the shooting including a loud crashing sound as if Barnes was erecting a barricade in the front room.

At 9:31 a.m., the Arwin robot, was activated and moved to the front window of the residence. Arwin rounds were fired through the window with not response. Shortly thereafter, the officer observed the robot forcibly enter the residence through the interior front door.

Officer Joshua Dobson

At approximately 2:47 p.m., July 17, 2006, SWAT Officer Joshua Dobson was interviewed at the Hall of Justice by Det. Thomas Higgins #440. During the interview Officer Dobson's HK-53 semi-automatic weapon was examined and found to be missing four rounds.⁵

Officer Dobson stated that he had been called out and upon arrival at the scene was deployed to the driver side of the SWAT armored vehicle. He was wearing a marked police SWAT uniform and had been informed that the incident involved a barricaded subject who was armed with a firearm.

While positioned near the SWAT vehicle, he observed Barnes exited the front door of the residence, wearing a "Chargers" jersey and armed with a "long gun" similar to an older model shotgun. Officer Dobson stated that Barnes raised the gun to his shoulder pointing the weapon at the group of officers in and around the Peace Keeper vehicle to his right. Believing he was preparing to fire at the officers, Officer Dobson stated he fired two rounds at Barnes who fell into a sitting position in the doorway of the front porch. He fired two additional rounds when Barnes raised the weapon to his shoulder and aimed gun directly at him. Barnes then moved back into the residence from a sitting position and shut the inter front door.

The Officer Dobson told investigators that he did not believe Barnes had fired his weapon at the time he (Officer Lightfoot) initially fired his automatic weapon. However, when asked if he thought Barnes fired after the first volley from rounds, Officer Dobson stated "I heard a pop. Whether it was, or whether it was other officer's gunfire or my own, I just didn't see anything more to corroborate that; a muzzle flash, a casing ejecting, or anything like that. So that's why it was, you know unclear to me".

CIVILIAN WITNESSES:

Numerous residents reported hearing portions of the incident involving the decedent and the involved offices. [REDACTED] and [REDACTED] actually observed Barnes discharging a firearm.

[REDACTED], who resides with his brother at [REDACTED] Eleanor Avenue, stated that he called 9-1-1 after hearing gunshots at 3:57 a.m., July 17, 2006 coming from the rear yard of his neighbor's residence. Upon looking out of his bedroom window he heard three additional gunshots and saw the muzzle flashes in the rear yard of his neighbor's residence. The area was dark preventing [REDACTED] from seeing who was discharging the weapon. [REDACTED] knew that Barnes lived by himself and had spoken with Barnes the weekend before the shooting and noted that he appeared to be under the influence of alcohol and "stressed out" about his recent wife's death.

⁵ Heckler & Koch Model 53 machinegun fires a .556 caliber rifle cartridge. WCC04 spent casings recovered from the scene were associated with the discharge of this weapon.

█████ spoke to the responding officers confirming what he had advised the police communication operator. After speaking with the officers, he went back into his residence and heard another gunshot. He called 9-1-1 again and was informed that the police were still at the scene. █████ went back outside and observed Barnes at his front door wearing only underwear. Barnes fired a gunshot near his fence in the backyard and yelled word similar to "fucking with my business" before walking back into his house through the front door. █████ returned to his residence and was walking up the stairs when three more gunshots rang out from the vicinity of Barnes residence. He observed numerous police officers in the area. Eventually █████ and his brother were evacuated from their residence.

█████ stated that he and his brother, █████ have lived in their █████ Eleanor Ave. residence for the past six years and have known Barnes during that same period of time. He described their relationship as "good" having spent time together over the years during Thanksgiving and Christmas. The Friday before the shooting Barnes had came to their residence and advised that his ex-wife had died. He was upset and near tears. The following Saturday, Barnes called their residence and was very upset over their dog being in his yard. █████ went to Barnes house and a verbal altercation took place. █████ stated he interceded before any physical violence occurred.

During the night of July 17, 2006, █████ stated he was awaked by the sound of gunshots. █████ was also awoken and went downstairs and called the police. He went to his bedroom window and shinned a flashlight at Barnes who was in his backyard with a handgun and wearing only underwear. █████ then heard two more gunshots and saw flashes from the barrel directed to an area where Barnes kept his dog chained.

After talking to the police officers, █████ returned to his upstairs bedroom window and saw Barnes enter his rear yard and fire off another gunshot. Barnes walked around to the front of his home and fired at least two more shots. The police immediately returned and asked the █████ to leave. They then left their house and allowed the police to have access to the second story bedroom. █████ went to the church (Command Center) and was able to see the front door area of Barnes' residence from a safe location. During the stand off, he saw Barnes exit the front door and fire a weapon two or three times towards the police officers who then responded with gunfire.

PATHOLOGY/CAUSE OF DEATH:

Dr. Mark Super, Chief Forensic Pathologist for the Sacramento County Coroner's Office, performed the autopsy on Venorrias Barnes. He reported that the decedent died as a result of multiple gunshot wounds to the torso, including the left shoulder and chest, and the left knee. Postmortem toxicological analysis of the decedent's blood was negative for alcohol and common drugs or drugs of abuse.

Venorrias Barnes and Family

Venorrias Barnes, a 59 year old black male, resided alone at his [REDACTED] Eleanor Avenue residence. He had a minor criminal history that included arrests for assault with a firearm, assault and battery and spousal abuse with the last arrest occurring in 1999. Neighbors interviewed stated Barnes was distraught over the death of his wife who had been buried the Saturday before this incident, July 15, 2006.

On September 14, 2006, Investigator Garverick met with family members including the decedent's son, Lenorrias Barnes and his wife [REDACTED]. The family members advised there were inconsistencies with the sequence of events reported by the police and that of witnesses they had located. Investigator Garverick asked for the identity of the witness so they could be interviewed as part of the review process and they agreed to provide the witnesses identification and any other evidence they obtain.

On October 23, 2006, Investigator Garverick emailed [REDACTED] seeking the previously referred to information since the Barnes family had not provided the witness information cited during the earlier meeting. No reply to the email was received. Another email request was sent on December 4, 2006 without a response. A telephone message was left for [REDACTED] on December 6, 2006 but no return call was received. On February 21, 2007, Investigator Garverick made contact with [REDACTED] who had called requesting a copy of investigative reports from this office. He stated that he had filed a claim with the City of Sacramento and was no longer interested in providing any additional information to the District Attorney's Office.

LEGAL ANALYSIS

A peace officer is entitled to use deadly force in self defense, in defense of others, or when the flight of a suspect poses a risk of great injury to the officer or another person. (Penal Code sections 196 and 197; Tennessee v. Garner (1985) 471 U.S. 1; Graham v. Connor (1989) 490 U.S. 386; Kortum v. Alkrie (1977) 69 Cal. App.3d 325; CALCRIM 505, 2670) California law permits the use of deadly force if the person actually and reasonably believed he or another person was in imminent danger of death or great bodily injury and when necessary to apprehend a dangerous person (e.g., one who poses a significant threat of death or serious bodily injury) who has committed a felony. (CALCRIM 505, 507) An officer who attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall the officer be deemed an aggressor or lose right to self-defense by use of reasonable force. (Penal Code section 835a)

In situations where it is reasonably necessary to defend oneself or others from death or serious bodily injury, the use of deadly force is legally justified. (Penal Code section 197; People v. Ceballos (1974) 12 Cal.3d 470-483; CALCRIM 505) The law does not require the danger to be real. The appearance of imminent death or serious injury to oneself or others justifies deadly force where the fear is genuine, objectively reasonable and the basis for its use. (Penal Code section 197(3), In re Christian S. (1994) 7 Cal.4th 768, CALCRIM 505)

The test for self-defense is one of "apparent necessity". Accordingly, the slayer must harbor an honest and reasonable belief in the apparent peril and the need to defend himself/herself. The means of force used, whether lethal or non-lethal, must be reasonable under the circumstances. If a firearm is pointed at a person in a threatening manner and under such circumstances as to induce a reasonable belief that it is loaded, and will be discharged, the person threatened may use all necessary force to avert the apparent danger. (People .v. Anderson (1872) 44 Cal. 65)

In determining whether a person using self-defense acted properly upon the appearance of danger, the law recognizes that a person experiencing a stressful event is not able to reflect upon his actions and the perceived threat against him to the same degree as a person who is not being confronted by an emergency situation. In People .v. Hecker (1895) 109 Cal. 451, at 467, the California Supreme Court stated:

Where the peril is swift and imminent and the necessity of action immediate...the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified because he might have resorted to other means to secure his safety. The suddenness of the attack put him to the wall.

The officer may and must make his often-instantaneous decisions based on appearances of danger and not its actual existence. "He may act upon such appearances with safety and if without fault or carelessness he is mislead concerning them and defends himself correctly according to what he supposed the facts to be, his act is justified...." (People v. Collins (1961) 189 Cal. App.2d 575, at 588) Under California law, any person, including a law enforcement officer, who is threatened with an attack that justifies the use of self-defense, need not retreat. The person threatened may stand his/her ground and defend themselves by deadly force if necessary even if retreat would have been possible. (People v. Dawson (1948) 88 Cal.App.2d 85, 95.)

Under these principles, each of the officers clearly had the right to act in defense of himself or herself or in defense of a fellow officer (or a combination of both). Barnes stepped onto the front porch and confronted the uniform officers with a shotgun. He moved the barrel of the weapon in the direction of the officers who were near the police vehicles parked directly in front of his residence. This action placed numerous officers in imminent danger since they were directly in Barnes' line of fire. Each shooting officer actually and reasonably believed at the time he fired his weapon that the suspect intended to cause death or serious physical harm.

Officers Lightfoot and Dobson fired their weapons towards Barnes in reasonable response to his threatening movements. A second volley of shots was fired by the officers after Barnes moved onto ground and directed the barrel of his weapon at the officers again. Officers Lightfoot and Dobson discharged the second volley of rounds at Barnes believing their lives were still in danger.

The possible inconsistency between the officers' statements of belief that Barnes actually fired a weapon while on the front porch and the physical evidence which may indicate to the contrary does not change the final conclusion. It is the actual belief of the officer(s) at the time they fired

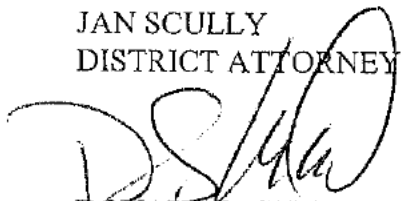
their weapons, and the reasonableness of that belief, that is controlling. If the officers actually and reasonably believed that Barnes intended to cause death or serious injury to another person, their actions were lawful. It is undisputed that Barnes came out onto his front porch armed with a firearm, raised the weapon to his shoulder and aimed the barrel in the direction of the officers located near the SWAT vehicles in the street. Under these facts, the officers' actions were objectively reasonable in defending themselves and others against a subject who was armed with a lethal weapon and acting in a threatening manner.

CONCLUSION:

It is the conclusion of the District Attorney's Office that the shooting of Venorrias Barnes was legally justified. Officer Lightfoot and Officer Dobson honestly and reasonably believed that Barnes posed a deadly threat and acted in self-defense. Finding the shooting lawful, we will take no further action in this matter.

Very truly yours,

JAN SCULLY
DISTRICT ATTORNEY



DONALD R. STEED
Supervising Deputy District Attorney

cc: Officer Joshua Dobson, # 393
Officer John Lightfoot, # 560
✓ Sgt. Bob McCloskey
Don Casimere

Attachments

MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit

**DATE:** August 24, 2006**REF:** PSU 08- 07**TO:** Albert Nájera
Chief of Police**ATTN:** Steve Segura, Deputy Chief
Office of Operations/InvestigationsScott LaCosse, Captain *SL*
Internal Affairs**FROM:** Rudy Chan, Sergeant
Professional Standards Unit**RE:** Shooting Review Disposition W06-09

A shooting review was held on Wednesday, August 23, 2006 during the management session of Infocom. All findings were made with the concurrence of the Deputy Chief, Office of Operations/Investigations. Those in attendance were:

Deputy Chief Segura
Capt. Somers
Capt. LaCosse
Lt. Peletta
Lt. Dowden
Lt. Westin
Sgt. Greenlee
Larry Nelson (Risk)

Capt. J. Schiele
Capt. Louie
Lt. Jensen
Lt. Rehm
Lt. Beerman
A/Lt. Kidd
Sgt. Chan
Don Casimere (OPSA)

Capt. McCarthy
Capt. Hahn
Lt. Haynes
Lt. Brown
Lt. Moir
Sgt. McCloskey
John Green (ID)
Carla Murray (CSI)

The following is the recommendation for the shooting:

W06-09**JUSTIFIED**

Officers involved
Dobson/Lightfoot (SWAT)

Presenter
Sgt. McCloskey

Division Commander
Capt. Louie

Summary: On 07-17-06, at approx. 0357 hours, patrol officers responded to ■■■ Eleanor Avenue on information that the complainant heard 3 gunshots coming from the back yard of a neighbor's residence. The caller stated that the neighbor Venorrias Barnes had a wife who died a week ago. On arrival at approx. 0410 hours, officers observed that the front door of ■■■ Eleanor was open but the exterior metal security door was shut. Officers announced themselves and knocked on the screen door. At this time, no lights were observed to be on inside the residence and no one responded to the announcements. Through Communications, Sergeant Steve Oliveira obtained the telephone number for that residence. On calling into the residence, the answering machine picked up. Sgt. Oliveira left a message for Mr. Barnes to come outside and meet with officers. SPD records checks indicated that Mr. Barnes wasn't on probation or parole and hadn't been arrested in 10 years. Mr. Barnes however had been arrested in the past for domestic violence and had a prior assault with a deadly weapon. With no answer or signs of movement inside the house, officers cleared the call at approximately 0450 hours. Sgt. Oliveira remained in the area and conducted surveillance on Mr. Barnes' residence.

At approx. 0459 Hours, Sgt. Oliveira heard one loud gun shot come from the area of Mr. Barnes residence and requested units to return to the location. At approximately 0500 hours, Dispatch advised that they had received a call from the original complainant, indicating that Mr. Barnes had come outside and fired another shot and went back into the house. Sgt. Oliveira directed officers that came back into the area to establish a perimeter around the residence and block off traffic at the west and east ends of Eleanor Ave. at Rio Linda Ave. and Branch Street. Rifle team officers took positions across the street from the location. Officers also began to evacuate residences on Eleanor Ave and Las Palmas Ave. Once the inner and outer perimeters were set, Sgt. Oliveira established a Command Post (CP) in the parking lot behind the Calvary Christian Center located at Eleanor Ave and Branch Street. Lt. Sweeney gave Sgt. Oliveira authorization to make a SWAT call-out. At approx 0516 hours, SWAT and HNT were requested. Sgt. Oliveira then contacted Lt. Virgil Brown and briefed him on the incident. The Watch Commanders vehicle was used as the Command Center until the MIC arrived. The evacuated residents were directed to the sanctuary at the Calvary Christian Center. SWAT officers deployed and secured the inner-perimeter, traffic officers responded and relieved the Late Watch outer-perimeter officers. HNT received information on Mr. Barnes and was given telephones numbers to his residence and cell phone.

As the HNT prepared to call into the residence, the suspect opened the door to the residence and then went back into the house. The suspect threatened to shoot officers if they didn't leave. No gun was initially seen when the suspect stepped out of his residence. HNT placed several calls into the house. During this time, the suspect would answer the telephone, then yell at the officer and hang up. At approximately 0656 hours, HNT utilizing the cover of the SWAT armored vehicle began to approach the suspect's residence. At approximately 0658 hours, the suspect exited the door to his backyard with a long barrel weapon and fired one round into the air. The suspect then walked back into the house. At approximately 0700 hours, HNT attempted to call the suspect but his telephone rolled over to his answering machine. The suspect came to the front door several times and then stepped away from it. At approximately 0727 hours, HNT used the PA to contact the suspect but there was no response. At approximately 0741 hours, the suspect was again seen at the front door but HNT was unsuccessful in establishing any dialog with him.

At approximately 0747 hours, the suspect opened the door to the residence and pointed a shotgun in the direction of SWAT officers who had taken up positions next to the armored vehicle. Officer Dobson fired 4 rounds from his .223 caliber HK53 rifle and Officer Lightfoot fired 7 rounds from his 9mm MP5 sub-machinegun at the suspect. The suspect was hit and crawled back into the residence. HNT continued to advise the suspect to come out of the residence without the gun. SWAT on several occasions indicated they could hear movement inside the residence. At approximately 0825, HNT played a pre-recorded message from the suspect's son in an attempt to have dialog with the suspect with negative results. At approximately 0930 hours, the robot was deployed. SWAT was authorized at approximately 0934 hours, to use the ARWEN to break the window to the east of the front door because the glare from the window prevented the robot's camera from seeing inside the residence. The robot used its water cannon to breach the dead bolt on the front door at approximately 1001 hours. On entering the residence, the robot camera showed that the suspect was down and not moving. At approximately 1009 hours, SWAT entered and cleared the residence. Medic 20 and Engine 20 pronounced the suspect deceased at approximately 1025 hours.

Recommendations: Metro will continue with their plan to implement the use of video cameras during SWAT deployments.

Handwritten signatures and date:
HNT, BSA
9-8-06

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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));

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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

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