



OFFICE OF THE
DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY

August 10, 2007



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

RE: Officer-Involved Shooting, Case No. 06-348151
Shooting Officer: Ronald Chesterman #631
Person Shot: Christopher Millhouse
(DOB 5/20/84 [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 Christopher Millhouse. For the reasons set forth below, we concluded that the shooting was lawful.

Written reports and other documentary items were reviewed. These consisted of: Sacramento Police reports, video and audio recordings, photographs and reports by District Attorney Investigators.

FACTUAL SUMMARY:

On October 2, 2006 at 11:27 p.m., the Sacramento Police Communication Center received a transfer call for service from the Sheriff's Department. The transferring employee advised that a counselor at Suicide Prevention had called stating that a subject residing at [REDACTED] Woodbine was on the program hotline saying he was going to kill himself. The Suicide Prevention counselor, [REDACTED], described hearing what sounded like the clicking (racking) of a gun in the

SPECIAL INVESTIGATIONS

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background while speaking with the subject on the phone. The subject stated there were guns in his house and that he did not like his family and wanted to kill himself.

Mr. [REDACTED] continued to converse with the caller during his contact with law enforcement but he did not advise the subject that he was communicating with the police or that they were enroute to his residence. Uniformed Sacramento Police officers were dispatched to [REDACTED] Woodbine, including K-9 Officer Ronald Chesterman. The first police unit arrived near the Woodbine location at 11:41 p.m.

The [REDACTED] Woodbine location was described as a single story residence that was under construction. A detached garage was nearby with a cab over camper parked just east of this building with light illuminating the interior. The camper was resting on blocks and appeared to be inhabited when officers arrived. There was a duplex located next to the [REDACTED] Woodbine complex with a six foot fence separating the duplex from the camper and the buildings located at [REDACTED] Woodbine.

The responding officers established a perimeter around the residence under the supervision of Sgt. Laura Gracia #3031. Those officers on the north side of this property heard someone cycling a firearm as they took up their positions. These sounds the officers heard were coming from the camper at the rear of the property. The officers at the north side of the property were concealed by a six foot redwood fence that was between them and the camper.

Officer Ronald Chesterman, K911, was one of the officers on the north side of this address. Officer Chesterman advised Sgt. Gracia that he was going to attempt to gain access to the roof of the duplex immediately north of their location so he would have an unobstructed view of the camper.

During this time Sgt. Gracia was attempting to make telephone contact with the hotline caller by a cell phone number received from the Suicide Prevention counselor. She made two calls that immediately transferred to voice messaging. During the second call Sgt. Garcia left a message stating she was a police officer located outside of the [REDACTED] Woodbine residence and that she wanted to speak to the occupant. The Sheriff's Office Communication Center had advised the officers that the cell phone number was assigned to a [REDACTED]. At this point, six uniformed patrol officers were positioned around the fence running east and west between [REDACTED] Woodbine and the duplex at [REDACTED] Woodbine. Officer Chesterman had taken a position on the roof of the duplex armed with a rifle that gave him an unobstructed view of the camper. During this time the lights inside the camper were being turned off and on with activity inside.

Officer Chesterman was in this position when the door to the camper opened and he observed a subject, later identified as Christopher Millhouse, standing in the doorway. An agitated Millhouse looked in the direction of Officer Chesterman and yelled, "I see you, I see you up there", as he reached back into the camper. When he reappeared moments later, Officer Chesterman observed a long barreled firearm (shotgun) in Millhouse's hands at a port arms position. Fearing for his own safety and that of his fellow officers who were positioned behind a wooden fence a few feet from the door of the camper, Officer Chesterman fired his rifle twice at

the armed subject. Millhouse was struck in the right leg and fell inside of the camper doorway. He then crawled out onto the ground where he was taken into custody. An unloaded .12 gage Mossberg 550A shotgun was recovered from the floor of the camper along with five live rounds attached in the arm on the stock of the weapon. A cellular telephone was observed on a seat cushion inside of the camper.

STATEMENT OF OFFICER CHESTERMAN

During an interview with investigators, Officer Chesterman stated that he parked his patrol vehicle and approached the [REDACTED] Woodbine address on foot. After reaching this residence, he moved to the north perimeter, concealing himself behind a redwood fence. Other officers joined him at that location. While concealed behind the fence Officer Chesterman heard the sound of a shotgun being racked (loaded) inside of the camper. Officer Chesterman states he was concerned for his safety and the safety of the other officers because they were located approximately fifteen feet from the back of the camper. Officer Chesterman and the other officers moved to a location that would afford more protection than the redwood fence.

Because it was impossible to observe the camper and the actions of the occupant inside from their vantage point, Officer Chesterman informed Sgt. Gracia that he was going to relocate with his rifle to the roof of the duplex located immediately north of their location which would provide an unobstructed view of the camper door.

Officer Chesterman was able to gain access to the roof of the [REDACTED] Woodbine duplex, and moved to the crest of the roof. From this vantage point, he could clearly see the camper door on the south side of the redwood fence. Officer Chesterman estimated he was between forty and fifty feet from the back of the camper. He was wearing a police uniform and a ballistic helmet.

While positioned on the roof, the officer stated a light in the camper went on then off then on again as the back door opened with the a person (Millhouse) stepping out unarmed illuminated by the interior lighting of the camper. The agitated subject looked up directly at Officer Chesterman and stated "I see you, I see you up there," before reaching back inside of the camper, then stepping back out armed with a shotgun held at a port arms position facing the officer. Officer Chesterman states he had no doubt that the subject (Millhouse) was going to shoot at him or another officer based upon his demeanor and position. Without delay, Officer Chesterman fired his rifle twice at the subject for his own safety and the safety of the officers deployed on the ground near the suspect. Millhouse immediately went down screaming "I'm sorry, I'm sorry," without firing his weapon. Unarmed, Millhouse crawled out of the camper doorway and onto the ground where he was taken into custody.

During transportation to the UC Davis Medical Center, Millhouse told the accompanying officer that he did not know the police were at his residence and that he reached for the shotgun for self defense believing they were gang members outside. He admitted seeing a person on the roof and that he had the shotgun when he was shot. In a follow-up interview at the Medical Center, Millhouse confirmed that he was depressed and had drank a considerable amount of beer prior to

the shooting. He stated he was cocking the “unloaded” gun during his call to Suicide Prevention but denied that the weapon was ever loaded or that he intended to shoot anyone.

A blood sample taken at the Medical Center established Millhouse had a blood alcohol level at 0.19%, and the presumptive presence of tetrahydrocannabinols (Cannabis) shortly after the incident. Millhouse survived the shooting, however, his right lower leg required amputation due to damage caused by the shots fired during the incident.

The District Attorney’s Consolidated Intake Division reviewed the case and declined to file criminal charges against Millhouse for brandishing a firearm or assault. The reviewing deputy district attorney concluded that there was insufficient evidence to prove that Millhouse knew the police officers were present or that he brandished the weapon within the meaning of Penal Code section 417.

LEGAL 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; CALCRIM 2670. 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).

The person being detained or arrested maybe 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; CALCRIM 2670, 2672. California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 3470).

Exigent circumstances justified the law enforcement attempt to locate and detain Millhouse. An emergency situation requiring swift action was apparent based upon the information received from the Suicide Prevention counselor that supported the conclusion that Millhouse should be located and restrained. Millhouse’s conduct was consistent with psychotic behavior that posed a danger to himself and others. Under these circumstances, the officers were legally justified in detaining Millhouse for psychiatric evaluation pursuant to Welfare and Institutions Code section 5150.

Under these legal principles and factual circumstances, the Officer Chesterman clearly had a right to act in defense of himself, of a fellow officer, or both. The officers had heard Millhouse racking the shotgun, and action which would load a round into the firing chamber. Millhouse stepped outside without the gun, saw the officer on the roof, stepped back into the camper doorway, armed himself with the shotgun, then stepped out in a threatening manner. Millhouse’s

actions placed Officer Chesterman and the other officers in apparent and imminent danger. Officer Chesterman, reasonably believing that Millhouse was going to shoot him or the officers stationed behind the nearby fence, fired his rifle twice, striking Millhouse in the right leg. The debilitating injuring caused Millhouse to fall and release the shotgun.

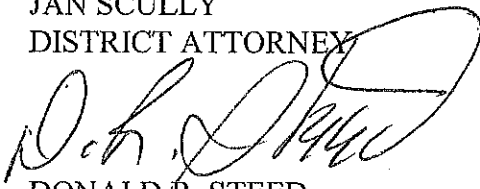
California law permits the use of deadly force if the officer actually and reasonably believed he or others were in imminent danger of death or great bodily injury. (CALCRIM 3470). Officer Chesterman actually and reasonably believed at the time he fired his weapon that Millhouse intended to cause death or serious physical harm to others.

CONCLUSION:

Applying the controlling legal standards to the factual record in this case, we find that Officer Chesterman's actions were reasonable and justified in self-defense and defense of others 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,

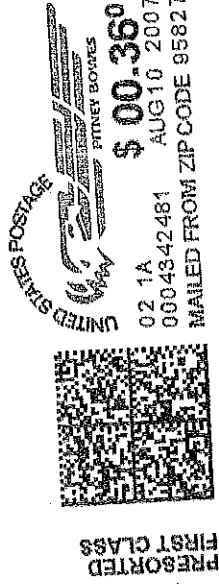
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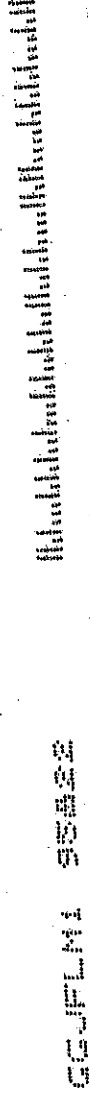
cc: Ronald Chesterman
Lt. James Hendrickson
Don Casimere

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MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



DATE: November 2, 2006
REF: PSU 11- 01

TO: Albert Nájera
 Chief of Police

ATTN: Rick Braziel, Deputy Chief
 Office of Operations/Investigations

Scott LaCosse, Captain *SL*
 Internal Affairs

FROM: Rudy Chan, Sergeant
 Professional Standards Unit

RE: Shooting Review Disposition W06-10

A shooting review was held on Wednesday, November 1, 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:

Chief Nájera	Deputy Chief Braziel	Deputy Chief Segura
Deputy Chief Somers	Capt. J. Schiele	Capt. Louie
Capt. LaCosse	Capt. Parker	Capt. Valenzuela
A/Cpt. Dowden	Lt. Jensen	Lt. Haynes
Lt. Bernard	Lt. Peletta	Lt. Rehm
Lt. Brown	Lt. Sweeney	Lt. Schneider
Lt. Westin	Lt. Reese	Lt. Johnson
Lt. Gardner	Lt. Sakayue	Lt. Campas
A/Lt. Kidd	Sgt. McCloskey	Sgt. Chan
Ofc. Von Schoech	John Green (ID)	Larry Nelson (Risk)
Josh Mathe (Risk)	Don Casimere (OPSA)	

The following is the recommendation for the shooting:

W06-10

JUSTIFIED

Officers involved
 Chesterman (K-9)

Presenter
 Sgt. Hendrickson

Division Commander
 Capt. Louie

Summary:

Officers responded to a call of a violent 5150 WI at [REDACTED] Woodbine Avenue. The call came from the Suicide Prevention hotline advising that a subject felt like killing himself. The hotline employee heard the action of a shotgun being manipulated. The hotline employee confirmed that the subject said he had a gun. The subject hung up. Officers arrived and set up a perimeter on the house. Officers heard the subject racking the action on a shotgun to the rear of the address. Sgt. Gracia attempted two phone calls to the subject and both calls went to voicemail. Ofc. Chesterman deployed with a rifle to the roof of [REDACTED] Woodbine to provide high ground cover. Ofc. Chesterman saw a subject in the doorway of a camper in the backyard. The subject, Christopher Millhouse, said "I see you" to Ofc. Chesterman and grabbed a shotgun, bringing it to port arms. Ofc. Chesterman fired two rifle rounds striking Millhouse in the right lower leg. Millhouse was medically treated at the scene and transported to the hospital.

Recommendations:

DC Brazier directed that the involved patrol team and officers be de-briefed on the incident. There were also various training issues which were raised in regards to the method and manner of deployment of the rifle; use of the K-9 officer as a primary rifle operator, and to the lack of announcement of the police presence to the suspect at the scene. It was determined, however, that further discussion was required regarding the training issues involved and that this would occur after the Shoot Review.

Ofc - [Signature]
11-29-06

KATHERINE LESTER
Chief of Police

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Report Number: 2006-348151

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).

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