



OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SHASTA



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December 6, 2019

Chief William Schueller
Redding Police Department
777 Cypress Ave.
Redding, CA 96001

Chief Elizabeth Barkley
California Highway Patrol, Northern Division
2485 Sonoma Street
Redding, CA 96001

Re: March 10, 2019 Officer Involved Shooting
Shasta County Sheriff case 18S009186
California Highway Patrol case F1410719
Redding Police case 19R015523
Involved Officers: CHP Officer Marcos Castillo (#18174)
CHP Officer Talmadge "Chance" Clark (#17428)
CHP Officer Daniel Ringwelski (#19101)
CHP Officer Javier Garcia (#18201)
RPD Officer Joanna Bland (#127)
RPD Officer Chris Staup (#189)
RPD Officer Edward McGinnis (#186)
RPD Officer Lauren Meyer (#139)
RPD Officer Trevor Kuyper (#142)
RPD Sergeant Rex Berry (#327)
Involved Person: Brandon Starr Robinson (DOB 4/19/84)

Chief Schueller and Chief Barkley:

The Shasta County District Attorney's Office has completed an independent review of the above-referenced officer involved shooting incident. For purposes of this review, the district attorney's responsibility is to review the evidence and make a determination as to whether there is sufficient evidence to support the filing of criminal charges. Issues of policy, training, tactics,

or civil liability were not considered. For the reasons set forth below, we conclude that the shooting was lawful.

Consistent with countywide officer involved shooting protocol, the lead agency in this investigation was the Shasta County Sheriff's Office with the assistance of the Shasta County District Attorney's Office, the California Highway Patrol, the Anderson Police Department, and the Redding Police Department. In conducting the investigation, sheriff's personnel and officers from allied agencies interviewed witnesses and collected physical evidence in an effort to gain a full and complete picture of the events that resulted in the fatal shooting of Brandon Starr Robertson. The findings of the district attorney are based upon a review of the totality of the materials compiled in the multi-agency investigation.

FACTUAL SUMMARY

At approximately 11:00 pm on the evening of March 10, 2019, California Highway Patrol Officer Castillo was on patrol in the City of Redding. Officer Castillo was driving his patrol vehicle eastbound on Hartnell Avenue east of the intersection of Hartnell and Churn Creek Road. While driving along Hartnell, he observed a vehicle approaching him westbound on Hartnell coming from the area of Victor Avenue towards Churn Creek Road. The vehicle was a dark-colored sedan. This vehicle was later determined to be a Chrysler 300 sedan registered to and driven by Brandon Starr Robertson. Officer Castillo's attention was drawn to the vehicle because it appeared to be speeding. The speed limit for the area is 35 miles per hour. According to Officer Castillo, the vehicle was travelling at approximately 60 miles per hour. Through the use of his radar, Officer Castillo was able to confirm that the car's speed as 62 miles per hour.

Officer Castillo turned his vehicle around and activated his patrol vehicle enforcement lights in order to make a traffic stop for the speeding violation. The vehicle stopped in the parking lot of Bob's Liquors, located at 1074 Harnell Avenue. Officer Castillo exited his vehicle and contacted the driver and sole occupant of the vehicle, Brandon Starr Robertson. During this initial contact with Robertson, Officer Castillo noticed several symptoms of possible alcohol impairment, including the odor of an alcoholic beverage, slow and slurred speech, and red watery eyes. When asked, Robertson told the officer that he had been drinking beer earlier in the evening.

At this point, Officer Castillo returned to his patrol vehicle and informed his dispatch that he was going to be conducting a driving under the influence (DUI) investigation. Officer Castillo also took this opportunity to move his patrol vehicle, so as to avoid blocking the entrance to the store's parking lot.

After moving his vehicle, Officer Castillo returned to Robertson, who was still seated in the driver's seat of his Chrysler. Castillo informed Robertson that he was going to be administering field sobriety tests to determine if Robertson was driving under the influence. Robertson cooperated with the officer by exiting his vehicle and agreeing to perform the tests. Officer Castillo administered a series of standardized tests to determine Robertson's level of

impairment. This video portion of this interaction was captured on the Mobile Video/Audio Recording System (MVARs) of Officer Castillo's vehicle.

As one of the field sobriety tests, Officer Castillo administered a preliminary alcohol screening (PAS) test to Robertson. The results of this test indicated that Robertson's blood alcohol concentration was 0.26 percent. This is over three times the legal limit for operating a vehicle.

During the administration of the field sobriety tests, a second officer, CHP Officer Clark arrived on scene to assist. Officer Castillo, having reached the opinion that Robertson was driving under the influence of alcohol, told him that he was under arrest and directed him to put his hands behind his back. Officer Castillo requested that Officer Clark return the PAS device to his vehicle and retrieve a second set of handcuffs. The use of a second set of handcuffs to secure Robertson was due to his large size.

Up until this point, Robertson had been cooperative throughout the process, and had given officers no indication that he was armed. In fact, however, Robertson had a firearm concealed on his person throughout the DUI investigation process.

While Officer Clark was returning to the patrol vehicle, Officer Castillo was standing alone with Robertson. Castillo informed Robertson that he was being arrested for DUI. Officer Castillo then approached Robertson from behind to grab Robertson's left hand in order to handcuff him. Robertson stepped away from Castillo, pulled his hand from Castillo's grasp and turned to face the officer. It should be noted that there was a significant size difference between Robertson and Castillo. Robertson was approximately six foot, three inches tall and 250 pounds, while Officer Castillo was five foot, five inches and 150 pounds.

Concerned by Robertson's behavior and aware of the significant size difference between himself and Robertson, Officer Castillo drew his Taser and pointed it at Robertson. As he did so, Officer Castillo was giving verbal commands to Robertson to get down onto the ground. Officer Clark returned from the police vehicle and joined Castillo in efforts to obtain compliance from Robertson.

Robertson did not comply with the officers' commands. Instead, he went down onto one knee, and stated to the officers, "I can't do this. This can't happen. I can't do this. I got a gun." As he was making this statement, Robertson was motioning toward his right side. During this time, the officers requested another CHP unit respond to assist them. Officer Castillo was still holding Robertson at Taser-point and Officer Clark pointed his firearm at Robertson. Both officers gave repeated verbal commands to Robertson.

After a few seconds, Robertson went down onto both knees. He then quickly moved towards a standing position. At this point, Officer Castillo fired his Taser at Robertson. The Taser had minimal effect. Officer Castillo fired his Taser again. This second deployment of the Taser was not effective to bring Robertson into compliance. Instead, Robertson pulled the wires from his body and began to run away from the officers. Officer Castillo dropped the Taser and retrieved his firearm.

Robertson ran out of the parking lot in a northeasterly direction, with both Officers Castillo and Clark in pursuit. Clark was in the lead with Castillo behind him. Robertson's path

of travel took him towards Rockabye Lane, a residential street off of Hartnell Avenue. As Robertson ran, both officers observed him making “swiping” motions in the area of right hip area, which was concealed by a sweatshirt. These motions, combined with Robertson’s earlier statements and actions, led the officers to believe that Robertson was reaching for the firearm he had already told them he possessed.

As they pursued Robertson, both officers gave him verbal commands to stop and surrender. Robertson did not comply. Instead, he continued to run and reach toward his waistband.

During the foot chase, Robertson ultimately lifted his sweatshirt in his right waist area, enabling Officer Clark to see what he recognized as the butt of a handgun. Upon seeing the handgun, Officer Clark fired at Robertson three times from a distance of approximately 15 feet. After these shots were fired, Officer Clark observed Robertson raise his hands up above his head. The officer also heard Robertson groan. However, Robertson continued to run. Eventually, the officers were no longer able to see Robertson’s hands due to low lighting conditions. Soon after the initial shots were fired, the CHP officers broadcast a “shots fired” call over the radio.

Officer Clark began to back off in his pursuit for safety reasons and ran toward the residence located at 2951 Rockabye Lane. Clark saw Robertson jump over a fence into the back yard. About this time, the officer thought he saw something in Robertson’s right hand.

Meanwhile, Officer Castillo from his vantage point also saw Robertson jump the fence into the back yard of 2951 Rockabye. Castillo then saw Robertson turn and face Castillo. Robertson then extended his right hand, and Officer Castillo could see the silhouette of a handgun in Robertson’s hand, pointing toward Castillo. In response, Officer Castillo fired one shot from his handgun at Robertson. Castillo heard Robertson groan. Robertson then moved back five to ten feet and fell to the ground.

Officer Clark was able to see where Robertson went down from his vantage point. Once Robertson was on the ground, he was facing Clark. Officer Clark saw movement from Robertson’s hands, and then observed three gunshots coming from Robertson. Both Clark and Castillo heard the noise and saw the muzzle flash from these shots. The shots were fired in the direction of Officer Clark.

After taking fire from Robertson, both officers attempted to locate cover. Officer Clark dove to the ground and used the house for cover. He used his flashlight to illuminate the area where Robertson was lying. Clark saw Robertson raising his hands as if to shoot again. In response, Officer Clark fired two more shots.

Officer Castillo then heard Robertson say that he had been shot. Both officers gave Robertson commands to show his hands so they could provide him with medical assistance. Castillo illuminated Robertson and could only see his left hand. Robertson was lying on his right side with his right hand (the hand he had used to shoot) hidden.

While waiting for backup officers to respond, Officers Castillo and Clark maintained cover for themselves and attempted to monitor Robertson’s actions. During this time, Officer Clark also made brief contact with the two adult female residents of 2951 Rockabye and told them to take cover.

Within a few minutes, additional officers from both Redding Police and the California Highway Patrol began arriving at the scene in response to the shots fired broadcast. Castillo and Clark briefed the arriving officers. The officers then jointly established a perimeter and developed a tactical plan. A decision was made to use a ballistic shield to approach Robertson, who was still lying in the same location in the back yard of the residence. The officers wanted to be able to assess Robertson's condition and determine whether he was still in possession of a weapon.

Several officers approached Robertson utilizing the shield. As they approached to within two to three feet of him, they were able to see the bottom of a pistol grip in Robertson's right hand. Robertson was keeping his right hand under a concrete bench. The officers were concerned that Robertson was intentionally hiding his weapon in order to ambush the officers.

At this point, the officers retreated to come up with a plan. They discussed approaching Robertson from the south, but determined that would be unsafe as it would allow Robertson a direct line of sight to approaching officers. A decision was made to deploy a less-lethal shotgun in order to obtain compliance from Robertson. Redding Police Corporal Harris obtained the less-lethal shotgun and fired at Robertson. Almost immediately after the less lethal rounds were fired, officers observed Robertson make motions as if he were standing up. He also began to raise his right hand. From this action, it was apparent that Robertson was still armed with a firearm. Confronted with these actions, officers fired their weapons at Robertson, striking him multiple times.

In addition to CHP Officers Clark and Castillo, the following officers discharged their weapons in the final fatal encounter with Robertson: RPD Officer Bland, RPD Officer Staup, RPD Officer McGinnis, RPD Officer Meyer, RPD Officer Kuyper, RPD Sergeant Berry, CHP Officer Ringwelski, and CHP Officer Garcia.

After firing at Robertson, officers approached him and determined that he was deceased. A semiautomatic firearm was found underneath his body. Later examination of the firearm showed it to be a silver, Taurus .45 caliber semiautomatic handgun. The weapon was loaded, with one live round in the chamber and six live rounds in the magazine.

Coroner personnel later performed an autopsy on Robertson's body. His cause of death was determined to be multiple gunshot wounds.

As part of the investigation, crime scene technicians responded to the scene to document the condition of the scene and collect evidence. In this scene documentation, investigators located numerous shell casings in various areas of the foot pursuit and shooting. Three spent .45 caliber shell casings were located in the area where Officers Clark and Castillo had reported seeing Robertson fire his gun at them. These shell casings were consistent in caliber and style with the gun and ammunition found near Robertson's body after the shooting.

Shell casings consistent with those used by law enforcement were also located in the areas where police reported firing upon Robertson. Four shell casings consistent with the caliber and brand of ammunition used by the California Highway Patrol were located in the area where the CHP officers initially chased and fired upon Robertson.

In the area where multiple RPD and CHP officers fired at Robertson, numerous and varied shell casings were recovered. These included 35 .40 caliber shell casings of various manufacturers (consistent with the .40 caliber handguns used by RPD and CHP), 27 .223 shell casings (consistent with rifles used by both agencies), and 5 expended 12 gauge shotgun shell casings. Three projectiles from the less lethal shotgun were also recovered.

Detectives investigating this incident also sought out any civilian witnesses who may have seen or heard the incident. The two female occupants of 2951 Rockabye reported hearing officers making numerous loud commands to Robertson prior to the shooting. Detectives also interviewed three civilian witnesses who were outside Puerto Vallarta restaurant at the time of the initial traffic stop of Robertson. The restaurant is directly across Hartnell Avenue from Bob's Liquors. All three of these witnesses gave largely consistent accounts of what they had observed. They reported seeing Officer Castillo's initial DUI investigation in which Robertson appeared compliant. It then became apparent that Robertson was not complying with officers' commands. The Taser was utilized and Robertson fled on foot. Two of the three witnesses reported seeing Robertson raise his arm towards officers as if to shoot at them immediately prior to the police gunfire.

As is standard in this type of investigation, detectives investigated the background of Robertson. They determined that he had been living in Redding for approximately two years, having come from Nevada. Shasta County law enforcement had not had any contact with Robertson prior to this incident. However, Robertson did have an extensive history of law enforcement contacts in both the state of Nevada and Alpine County, California. Robertson's criminal history included arrests or convictions for battery, drug possession, and driving under the influence.

Detectives also contacted and interviewed Robertson's wife. She reported that Robertson had been drinking throughout the day on March 10. Sometime during that day, she became aware that he had obtained a firearm. She was unaware how he had obtained the gun, but believed he wished to have the gun for personal protection. Robertson left home late in the evening of March 10 after an argument with his wife. He appeared to be intoxicated at the time he left. At some point, Robertson informed his wife that he did not want to go back to jail.

As mentioned above, the initial contact between Robertson and CHP Officers Castillo and Clark was captured on CHP MVARs video. The only audio on the video is from inside Officer Castillo's vehicle, so the conversation outside the car is not audible. However, the video of the incident is consistent with what was reported by Officers Clark and Castillo. It shows Robertson's initial compliance with field sobriety tests and Officer Castillo's attempt to place him under arrest. Robertson pulls away and Officer Castillo pulls out his Taser. Officer Clark goes to assist Officer Castillo and it is apparent that the officers are making commands to Robertson. Robertson speaks back to the officers. Robertson can be seen briefly going down to his knees before standing up. Officer Castillo fires his Taser, and Robertson attempts to pull the Taser wires and flees on foot with the officers in pursuit. Shortly after the trio run offscreen, the first of several gunshots is audible.

LEGAL ANALYSIS

California law allows a peace officer to use reasonable force in order to detain or arrest a person, prevent the person's escape, or overcome the person's resistance if the force used is reasonable and if the officer has reasonable cause to believe that the person has committed a public offense or is a danger to others. (California Penal Code §835a, CALCRIM 2670.)

Under certain circumstances, reasonable force includes deadly force. Use of deadly force by a police officer is appropriate when the officer *honestly and reasonably* believes he or she is in danger of death or great bodily injury. (CALCRIM 505, 507, 3470.) A police officer has the same right of self-defense as any other person. A police officer may also use deadly force in situations where other officers or members of the public are at risk of great bodily injury or death.

Whether force is reasonable is judged from the perspective of a reasonable officer on the scene. The concept of reasonableness should allow for the often split-second decisions that officers are forced to make in rapidly evolving situations. (*Graham v. Connor* (1989) 490 U.S. 386.)

This situation began with a routine DUI investigation. Robertson was clearly driving under the influence, and Officer Castillo was lawfully attempting to arrest him for this offense. Robertson chose to resist Officer Castillo's lawful performance of his duties. The initial response of Officers Castillo and Clark was proportional to Robertson's initial resistance. Castillo held Robertson at Taser point while giving him commands. Robertson did not comply with the commands.

The known danger to the officers was escalated when Robertson informed them that he had a gun. This disclosure put both officers on notice that a deadly force encounter was imminent. Nonetheless, the CHP officers did not immediately resort to the use of deadly force. They attempted to hold Robertson at gunpoint and Taser point and requested additional CHP assistance while ordering Robertson to the ground. Robertson did not comply with these lawful orders, instead standing up and attempting to run. Officer Castillo used his Taser twice to no avail, and Robertson ran away while attempting to grab for his gun.

At this point, Officers Castillo and Clark were faced with an intoxicated, noncompliant, and armed individual fleeing into the darkness of a densely populated residential area. Further increasing the dangerousness of the situation was Robertson's attempted to gain access to his firearm, as observed by both officers. The initial decision of Officer Clark to fire at Robertson was lawful based on the deadly threat Robertson posed to both officers and the public.

It is unclear whether these initial shots struck Robertson. Nevertheless, Robertson clearly still posed a threat as he continued to run. Robertson further escalated the danger even further by pointing his weapon at Officer Castillo. This prompted Officer Castillo to fire his weapon. This decision was clearly lawful and appropriate.

Still, Robertson chose not to comply with law enforcement. Instead, he fired at Officer Clark, thereby unequivocally demonstrating his own willingness to use deadly force against

officers lawfully performing their duties. Officer Clark fired back, in lawful defense of himself and others.

Robertson was now contained to the back yard area of 2951 Rockabye. He was apparently injured and had every opportunity to comply. Indeed, in the several minutes that elapsed before the final fatal encounter, he had ample time to consider his options and choose to surrender and obtain medical attention. He did not do so. He held onto the gun in his right hand, disobeying multiple commands to show his hands and surrender.

Responding officers still took steps to try to end the encounter without loss of life. They risked their own safety by approaching close to Robertson to assess the situation and verify that he was still armed. He was still armed and noncompliant. They then used a nonlethal shotgun to obtain compliance. Robertson's immediate response was to begin to stand and point his gun at the officers.

Law enforcement was confronted with an individual who had already demonstrated that he was armed and had shown his willingness to use deadly force against police. In order to protect themselves and the public, the officers had no alternative but to use deadly force.

Every step of the way, Robertson had the opportunity to end the confrontation, and avoid having law enforcement use deadly force against him. He instead chose to escalate the situation. Robertson's death, while unfortunate, was completely due to his own actions and decisions.

Under the totality of the circumstances of this case, the officers' use of deadly force was not unreasonable. The officers acted appropriately under the circumstances.

CONCLUSION

Given the circumstances, the officers were justified in their actions. I find the shooting to be lawful and will take no further action in this matter.

Sincerely,



STEPHANIE A. BRIDGETT
DISTRICT ATTORNEY

cc: Tom Bosenko, Shasta County Sheriff