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January 12, 2024

Sheriff Donny Youngblood
Kern County Sheriff's Office
1350 Norris Road
Bakersfield, CA 93308

Chief Richard Standridge
Tehachapi Police Department
220 W C St,
Tehachapi, CA 93561

**Re: Tehachapi PD and KCSO Officer-Involved Shooting of Tyler Nastazio on November 3, 2022
Kern County Sheriff's Deputies Cody Taylor and Jeffrey Fisher
Tehachapi Police Department Officer Jared McCombs
14556 Tehachapi Blvd, Tehachapi CA
Documented in KCSO Report 2022-00130416**

Dear Sheriff Youngblood and Chief Standridge:

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed the reports and other materials submitted by your agency regarding the shooting noted above. The Officer Involved Shooting Committee reviews cases for criminal liability under state law. The Committee has completed its review. The findings are noted below.

Summary

On November 3, 2022, the Tehachapi Police Department and Kern County Sheriff's Department received calls of possible assaults that had occurred at or near 14556 Tehachapi Blvd. in Tehachapi, CA. Upon arrival at the residence, deputies and officers observed, through a window, an elderly man suffering from extensive stab wounds. Upon contacting the initial victim, officers and deputies were informed that the suspect was still inside of the residence and there was likely a second victim inside of the residence.

After making contact with the first victim deputies began call-outs to the front door of the residence. When the suspect refused to respond, they attempted to force entry into the residence, in part to secure

medical aid for the elderly stabbing victim that remained inside the residence and whose injuries prevented him from exiting on his own. While attempting to force entry, deputies observed a figure pacing back and forth on the other side of the door yelling something along the lines of “just shoot me”. The officers and deputies were compelled to evacuate the injured stabbing victim by breaking a window and pulling the victim through the window. After considerable attempts, the front door was finally breached. Immediately upon opening the front door of the residence, Tyler Nastazio began charging at the deputies and officers with 2 knives, one in each hand. Commands to drop the weapons were ignored and Nastazio closed the small gap between himself and the officers/deputies at full speed. It was only at this point that Deputies Fisher and Taylor and Officer McCombs fired their duty weapons at Nastazio.

Nastazio continued to ignore commands to drop the weapons even upon falling to the ground. Deputies were forced to remove one of the knives from Nastazio’s hand after he had fallen to the ground. Life saving measures were attempted, however Tyler Nastazio ultimately succumbed to his injuries at the scene.

Legal Principles and Analysis

In this case, Deputies Fisher and Taylor and Officer McCombs used deadly force in response to the threat Nastazio posed to each of their lives and the lives of each other.

A peace officer includes any deputy sheriff of a city or county, who is employed in that capacity (Penal Code section 830.1). That peace officer’s authority extends to any place in the state where any public offense is committed in the peace officer’s presence and with respect to which there is immediate danger to person or property or of the escape of the perpetrator of the offense (Penal Code section 830.1(3)). Deputies Fisher and Taylor are deputy sheriffs employed as such for the County of Kern. Officer McCombs is a peace officer employed as such by the Tehachapi Police Department. Thus, each of them were acting as peace officers within the meaning of Penal Code section 830.1.

Despite multiple, prolonged announcements of law enforcement’s presence at the location, Nastazio effectively lied in wait for the officers/deputies to make entry, then charged at both deputies and Officer McCombs while armed with two knives. Nastazio’s movement toward the deputies and officer came immediately, without warning, and at full speed. The ultimate result was that Nastazio, armed with a knife in each hand, came within three feet of the officer and deputies. At the time of this interaction, all the peace officers involved had information that Nastazio had already stabbed and injured at least two individuals. During this incident the peace officers were on a small fenced in porch, making their options for retreat or further efforts at de-escalation impractical.

An officer with reasonable cause to believe a crime is committed or a person is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. *Tennessee v. Garner* (1985) 471 U.S. 1; *Graham v. Connor* (1989) 490 U.S. 386; *see also* Penal Code section 835a(b). An officer may use deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person. (CA Penal Code

section 835(c)(1)(A)).

When evaluating the use of deadly force, one must decide whether the officers' beliefs and actions were objectively reasonable under all the circumstances known to him or her, as they appeared at the time. "The calculus of reasonableness must embody allowance for the fact that peace 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." *Graham v. Connor*, supra at pp. 396-397.

The law does not impose a duty to use less lethal options. "Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves." *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912, 915). The appearance of danger is all that is necessary; actual danger is not. *People v. Toledo* (1948) 85 Cal.App.2d 369 (*overruled on other grounds*); *People v. Jackson* (1965) 233 Cal.App.2d 639. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight." *Graham v. Connor*, supra, 490 at p. 396.

The peace officers involved in this case were faced with a violent man who, knowing full well of the law enforcement response to his already violent actions, charged headlong at the officers while brandishing knives in each of his hands. The peace officers in this case exercised the use of reasonable and necessary force to defend themselves and each other against the imminent threat posed by Nastazio.

Conclusion

Based upon a review of the evidence submitted by the Kern County Sheriff's Department, Deputies Cody Taylor, Jeffrey Fisher and Officer Jared McCombs responded reasonably in self-defense and defense of others to defend against an imminent threat of death or serious bodily injury posed by Nastazio. There is no state criminal liability for their use of deadly force under the circumstances of this case and the shooting is legally justified.

Sincerely,

Cynthia J. Zimmer
Kern County District Attorney