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April 1, 2025

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

Chief Greg Terry
Bakersfield Police Department
1601 Truxtun Avenue
Bakersfield, CA 93301

Re: Critical In Custody Incident involving Michael Marrufo and Officer Carlos Hernandez on July 18, 2023

Dear Sheriff Youngblood and Chief Terry:

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed the reports and other materials submitted by your agency regarding the critical in custody incident 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 July 18, 2023 Officers with the Bakersfield Police Department were dispatched to the McDonalds Restaurant located at Niles and Mt. Vernon, regarding a shooting that had just occurred at the restaurant. Based upon the information received from dispatch, Officers Carlos Hernandez and Jason Gonzalez began canvassing the area looking for the suspect who was believed to be armed.

While canvassing the area of Mt. Vernon and Niles, Officers Gonzalez and Hernandez observed Michael Marrufo who matched the description of the shooter. Officers Gonzalez and Hernandez attempted to make contact with Michael Marrufo however he immediately ran from officers. Michael Marrufo's behaviors toward the officers supported their belief that he was the suspected shooter. Based upon these beliefs, as well as Michael Marrufo's behaviors, officers gave chase to Michael Marrufo. During this chase, Michael Marrufo ran into the yard of a private residence where he ducked behind an above ground pool. When officers located him behind the pool he lied down and acted as though he was going to comply with officers. Within seconds he stood up and continued to evade officers.

Officer Hernandez eventually made physical contact with Michael Marrufo as he attempted to jump over a chain link fence. At this time, Officer Hernandez grabbed Michael Marrufo and Michael Marrufo fell to the ground. Upon falling to the ground Michael Marrufo lost consciousness, officers and medical personnel attempted life saving measures but they were unsuccessful. Michael Marrufo died on the scene.

It was determined that Michael Marrufo was not the suspect from the McDonald's shooting however he was armed with a loaded revolver. This firearm fell from his pants as he fell to the ground from the fence.

It was determined through an autopsy that Michael Marrufo died from "Acute Methamphetamine and 4-ANPP Toxicity as well as Massive Hypertrophic Heart Disease with Cor Pulmonale". The Pathologist that performed the autopsy determined that this was an accidental death. He specifically noted that neck or head trauma from the fall did not play a role.

Legal Principles and Analysis

In this case, Officer Hernandez used physical force in order to detain Mr. Marrufo who he thought was the suspect in a recent shooting and had been evading him.

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)). Officer Hernandez is a Police Officer employed as such for the City of Bakersfield. Thus, he is a peace officer within the meaning of Penal Code section 830.1. In this case, Marrufo matched the description of a suspect in a recent shooting. Immediately upon officers trying to contact Marrufo he began running and continued to evade officers. After a significant foot pursuit, Officer Hernandez grabbed Marrufo as he tried to hop a fence in an effort to continue evading officers. At this time Officer Hernandez believed that Marrufo was armed and had recently been involved in a shooting.

Since Officer Hernandez was acting as a peace officer and was on duty as a peace officer at the time of the incident, his conduct is judged by the same standard used for all peace officers. 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). The use of reasonable force to detain a subject is governed by the Fourth Amendment's "objective reasonableness" standard. In this case, Officer Hernandez believed that Marrufo had just been involved in a shooting and was presently armed. Marrufo ran from officers in an attempt to delay or prevent the investigation. After a significant foot pursuit, Officer Hernandez grabbed at Marrufo's person in an attempt to stop him from continuing to flee from officers. Officer Hernandez did not use deadly force. Furthermore, it was ruled by the Pathologist that the actions of Officer Hernandez did not contribute to Marrufo's death.

"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. 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. Here, Officer Hernandez had information that a suspect with a description matching that of Marrufo was

wanted for a shooting at a nearby restaurant. Upon initial contact with Marrufo he immediately fled from officers and continued to flee. These actions led Officer Hernandez to continue in his belief that Marrufo was in fact the suspect in the shooting. Officer Hernandez did not employ any weapons during his effort to detain Marrufo, nor did he use deadly force. Officer Hernandez used only his hands to attempt to stop a fleeing subject. Based upon the totality of the circumstances and Marrufo's continued flight from officers there were no other means to stop the fleeing subject.

Based on the totality of the circumstances, Officer Hernandez's use of force was reasonable. Officer Hernandez was looking for a suspect that had just been involved in a shooting. While attempting to locate that individual using the information provided to him by dispatch, he located Marrufo. Immediately upon attempting to make contact with Marrufo, Marrufo began to run and continued to run from officers. In this case, Officer Hernandez gave several commands to Marrufo in an attempt to get him to stop fleeing and comply with officers. It wasn't until Marrufo continued to flee from officers, entering the yards to private residences, and ultimately attempting to jump a fence into a private yard, that Officer Hernandez used physical force against Marrufo. Officer Hernandez did not utilize any weapons or deadly force against Marrufo. The force used by Officer Hernandez was not more than that which was reasonably necessary to stop Marrufo from fleeing from officers.

Conclusion

Based upon a review of the evidence submitted by the Bakersfield Police Department, Officer Hernandez responded reasonably in his attempts to detain a fleeing subject whom he believed to be an armed suspect. There is no state criminal liability for his use of force under the circumstances.

Sincerely,

Cynthia J. Zimmer
District Attorney