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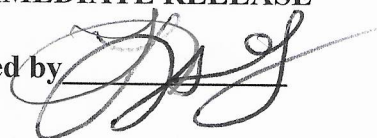
January 3, 2019

**MEDIA ADVISORY
CRITICAL INCIDENT REVIEW**

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FOR IMMEDIATE RELEASE

Approved by 

OFFICERS:

Kern County Sheriff's Deputy Todd Newell
Kern County Sheriff's Deputy Nicholas Evans

SUSPECT:

Nicholas Lovett

INVESTIGATING AGENCY:

Kern County Sheriff's Office

FACTS:

On December 13, 2017, the Kern County Sheriff's Office received a number of 9-1-1 emergency calls from a neighborhood in Boron. The callers reported Nicholas Lovett appeared to be under the influence of drugs, hallucinating, running up and down the street, and attempting to break into a home. Lovett who is 6'4 and over 260 pounds was known to local law enforcement based on prior contacts with him.

As deputies were responding, additional calls were received. The callers also reported that Lovett was trying to break into homes in order to "get his mother." Lovett's mother had an active restraining order against Lovett. This court order instructed Lovett to stay away from her. Based on this information and the knowledge the responding deputies had regarding Lovett, they requested backup from the CHP; however, the CHP did not have officers available to aid the deputies. Medical aid was also dispatched, and they staged just down the block from Lovett's location.

When the deputies arrived, they encountered Lovett in the middle of the street. Initially he complied with the deputies' orders to get down on the ground. However, as they approached him and

attempted to restrain him he became extremely violent. During the next several minutes the two deputies attempted to use control holds and pepper spray to restrain Lovett. As he continued to resist he fought with them and at one point kicked Deputy Newell in the head.

A neighbor seeing the fight in the street came out of his home and tried to aid the deputies by holding one of Lovett's legs down. With the assistance of the neighbor, the deputies were finally able to overcome Lovett's resistance and handcuff him. This entire contact lasted less than four minutes.

Immediately after doing so, all three men stood up leaving Lovett lying on the pavement. One of the deputies observed Lovett appeared to be choking on his tongue and having a seizure. They moved Lovett onto his side and summoned medical aid. Medical aid was immediately on scene and attended to Lovett. After approximately twenty minutes, Lovett was pronounced dead at the scene.

During the subsequent investigation it was learned that the day prior to this encounter, Lovett had been treated at a local hospital for chest pains after injecting methamphetamine. An autopsy was performed which included a blood test. As a result, it was learned that Lovett tested positive for the presence of methamphetamine at a level of 660 ng/mL. This is significant in that according to NMS Labs, methamphetamine in the blood at levels between 200 and 600 ng/mL can cause hallucinations, aggressive behavior and irrational reactions. Amounts at this level are also associated with violent behavior, confusion, circulatory collapse and convulsions.

Forensic Pathologist, Dr. Robert Whitmore further determined during the autopsy that Lovett's physical injuries were consistent with the events described by those present at the scene of the arrest. Contributing to the methamphetamine intoxication were hypertensive heart disease, obesity and physical restraint. None of the injuries sustained by Lovett during the physical altercation contributed to his death.

Dr. Whitmore further opined that given the status of Lovett's heart any kind of significant physical exertion put him in danger of heart failure. As a result, Dr. Whitmore ruled Lovett's death an accident with the cause of death as methamphetamine intoxication.

LEGAL ANALYSIS:

Under California Penal Code sections 835 and 835a, a peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. Under Penal Code section 148(a)(1), every person who willfully resists, delays, or obstructs any peace officer in the discharge or attempt to discharge any duty of his or her office is guilty of a misdemeanor.

Lovett was in violation of several crimes. He was in violation of a civil restraining order to stay away from his mother, a misdemeanor violation of Penal Code section 166—Failure to Obey a Court Order. He was in violation of Health and Safety Code section 11550(a), a misdemeanor, for being under the influence of methamphetamine. He committed a felony violation under Penal Code section 664/460(a) for attempting to break into a residence. Lastly, he had a duty to submit without resistance to the deputies who came in response to numerous 911 calls regarding the above crimes. His failure to do so was a violation of Penal Code section 148(a)(1), a misdemeanor.

In deciding whether an officer used force lawfully, one must consider what a reasonable person would have done in a similar situation with similar knowledge and experience. One must decide whether the officers' beliefs and action were objectively reasonable under all of the circumstances known to him, as they appeared at the time.

During the incident the deputies never struck Lovett nor used any weapons. Both deputies stated that it took all their strength to gain control of Lovett's arms and get him handcuffed. Even using all their combined strength, the deputies were not successful in doing so until a resident came and assisted them by holding one of Lovett's legs down to keep him from kicking them. Witnesses stated that Lovett seemed to have superhuman strength when struggling with the officers. The civilian who aided the deputies said the force used by the deputies was reasonable under the circumstances.

CONCLUSION:

Lovett committed a variety of crimes that required the deputies to take him into custody. The force used by the deputies was necessary to take Lovett into custody because he resisted and fought with them. The autopsy ruled Lovett's death an accident, and the cause of death to be methamphetamine intoxication. The deputies' use of force is justified.