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August 5, 2019

Captain Scot Loetscher
California Highway Patrol – Bakersfield
9855 Compagnoni Street
Bakersfield, CA 93313

**Re: Fatal shooting of Aaron Przkeop by CHP Officer Arturo Solis on February 8, 2019
near I-5 and Hwy 43; Kern County Sheriff case# 2019-00021531.**

Dear Captain Loetscher,

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

Summary

On February 8, 2019 at 4:42am, CHP Officer Arturo Solis and his partner responded to a call of a single car collision off the roadway on I-5 near Hwy 43. They found a single vehicle in an open field about two hundred feet from the freeway. Officer Solis contacted the sole occupant Aaron Przkeop to see if he was okay. When officers checked on Przkeop, he threatened Officer Solis, "Get the [expletive] back. I have a gun." Przkeop held up his right hand which was wrapped in a scarf and appeared to be concealing a gun. Officer Solis and his partner retreated to the patrol vehicle. They had their handguns drawn and ordered Przkeop to stop as they retreated. Przkeop did not comply with their orders. He moved towards the officers until they reached their patrol vehicle. Officer Solis retrieved a rifle from the patrol vehicle. Przkeop came within twenty-five feet of Officer Solis. Officer Solis yelled, "Drop it, stop, I will shoot you!" Przkeop responded, "Well [expletive] do it already!" Przkeop then made a motion extending his arm and lunging forward toward him. Officer Solis fired three times striking Przkeop. Przkeop died at the scene. Although Przkeop told Officer Solis he had a gun, when the scarf was removed from around his hand he did not.

Legal Principles and Analysis

A homicide is justified by a peace officer when necessary to overcome actual resistance to the discharge of his legal duty.¹ A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of others. An officer may also be justified using deadly force based upon the reasonable *appearance* of danger rather than *actual* danger.²

Przkeop told Officer Solis he had a gun. Przkeop appeared to have a firearm in his hand with a scarf wrapped around it according to both Officer Solis and his partner. Przkeop pointed his hand with the scarf wrapped around it as if he were pointing a gun. It was reasonable for Officer Solis to believe Przkeop had a gun.

It appears that Przkeop intended to create circumstances that would force the officers to shoot him because he was suicidal. Two days earlier he told a friend that he had too many problems in life and was going to “take himself out.” Prior to his vehicle coming to a rest in the field off of the freeway, Przkeop drove directly into a large metal light pole. It disabled his vehicle but caused him only minor injuries. Forensic Pathologist, Dr. Eugene Carpenter conducted Przkeop’s autopsy. He notes each of the three gunshot wounds enters through the front of Przkeop. Per Dr. Carpenter, “For the decedent to continue to face the officers for all three shots would be behavior in line with suicidal ideation.”

One must decide whether the officers’ beliefs and actions were objectively reasonable under all of 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.”³

Conclusion

Based upon a review of the evidence, Officer Solis responded reasonably to a perceived threat in self-defense. There is no state criminal liability for Officer Solis’ use of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,


Cynthia J. Zimmer
District Attorney

¹ Penal Code 196

² *People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.

³ *Graham v. Connor*, supra at pp.396-397