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June 17, 2022

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

Sheriff Alex Villanueva
Los Angeles County Sheriff's Department
211 West Temple Street
Los Angeles, CA

Re: Officer-Involved Shooting of Terron Boone by Los Angeles Sheriff's Detective Doug Herb, Detective Scott Marron, Detective Enrique Bolanos and Sgt. Bryan Haynes on October 19, 2021.

Dear Sheriff Youngblood and Sheriff Villanueva:

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 October 19, 2021, Terron Boone was wanted for several felony offenses involving kidnapping, false imprisonment, criminal threats and spousal abuse. As a result of the pending warrant, detectives with the Los Angeles County Sheriff's Department were attempting to locate Boone. Detectives began surveillance on Boone's phone and learned of Boone's location in Palmdale, California. Once Boone was located detectives began physical surveillance on Boone and followed him through several locations in Palmdale and the neighboring city Lancaster. Boone ultimately travelled to the apartment complex located at 3400 15th Street West in Rosamond. During the totality of the surveillance Boone was occupying the passenger seat of a Jeep SUV; his girlfriend was the driver and there was an infant in a car seat in the backseat of the vehicle.

Once at the apartment complex detectives followed Boone into the parking lot and attempted a traffic stop. They attempted to contact Boone by making several announcements and identifying themselves as

members of the Los Angeles County Sheriff's Department. During these attempts to contact, Boone exited the vehicle and pointed his firearm at detectives. At that point detectives observed smoke coming from Boone's firearm which indicated to them that Boone was firing his weapon in their direction. When detectives noticed that Boone was pointing and firing his weapon in their direction, they began to return fire. Detectives Herb, Marron, Bolanos and Sgt. Haynes each fired at Boone. Boone was struck several times and succumbed to his injuries on scene. Detectives ceased fire once Boone was no longer moving and no longer posed a threat.

The subsequent investigation located a firearm at Boone's feet. Further, a shell casing was located in the backseat of the vehicle.

The driver of the vehicle was struck by one bullet. She was transferred to Antelope Valley Hospital where she was treated and subsequently released. The infant in the backseat was unharmed. During an interview the driver of the vehicle told detectives that Boone was in possession of the firearm while she was with him during the day prior to the shooting. She further stated that Boone knew it was law enforcement attempting to make contact with him, because just before getting out of the vehicle he stated, "it's the cops" and immediately exited the vehicle.

Several residents and visitors of the apartment complex spoke with investigators and stated that they heard yells such as "Get your hands up" and "Get out of the car" prior to hearing any gunfire.

Legal Principles and Analysis

In this case, Detectives Herb, Marron, Bolanos and Sgt. Haynes used deadly force in response to the threat Boone posed not only to themselves, but also to the threat posed to the lives of the occupants of the apartment complex.

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)). Detectives Herb, Marron, Bolanos and Sgt. Haynes are employed as such for the County of Los Angeles. Thus, they are peace officers within the meaning of Penal Code section 830.1. In this case, Boone pointed a firearm in the direction of the peace officers and began firing. Boone's actions placed the lives and safety of the peace officers and countless unsuspecting residents of the apartment complex at risk of serious injury or death.

Since Detectives Herb, Marron, Bolanos and Sgt. Haynes were acting as peace officers and were on duty as peace officers at the time of the incident, their 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). 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.

Based on the totality of the circumstances, Detectives Herb's, Marron's, Bolanos' and Sgt. Haynes' use of deadly force was reasonable. These peace officers not only observed Boone in possession of a firearm, but Boone also actually began firing at the peace officers after they had announced themselves as such and made it clear they were attempting to take him into custody. Further, these peace officers had the additional information that Boone was wanted for a series of serious and violent crimes. Detectives Herb, Marron, Bolanos and Sgt. Haynes each fired their respective weapons in response to being fired at. These peace officers stopped firing their weapons once Boone was no longer moving, no longer pointing his weapon at the officers, and no longer posing a threat. The decisions made by each of these peace officers, while operating in their official capacity to fire at Boone, was a reasonable response to the deadly force employed against them and which endangered the community at large.

Conclusion

Based upon a review of the evidence submitted by the Los Angeles County Sheriff's Department, Detectives Herb, Marron, Bolanos and Sgt. Haynes responded reasonably in self-defense and defense of others to defend against an imminent threat of death or serious bodily injury posed by Boone. 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
District Attorney