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October 28, 2022

Captain Vince Pagano
California Highway Patrol
9855 Compagnoni Street
Bakersfield, CA 93313

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

Re: CHP Officer-Involved Shooting of William Weiler on May 6, 2022
Officer Erik Davis
3033 W 25th Street, Rosamond, CA.
Case documented in Case 22-53127

Dear Captain Pagano and Sheriff Youngblood:

The Kern County District Attorney's Office, Officer Involved Shooting (OIS) Review Committee has reviewed reports, body worn camera footage, audio recordings, photographs, and other materials submitted by your agency regarding the shooting noted above. The OIS Review Committee reviews cases for criminal liability under state law. This incident involved officers from the California Highway Patrol, and the investigation into the incident was headed by the Kern County Sheriff's Office. The OIS Review Committee has completed its review and the findings are noted below.

Summary

On May 6, 2022, California Highway Patrol Officers Ryan Perez and Erik Davis were on patrol in Rosamond, CA. Multiple civilians notified the officers a subject had started a fire near Acacia Street and fled to the Jack in the Box parking lot at 3033 W 25th Street. Officer Perez responded to 3033 W 25th Street and saw William Weiler, who matched the suspect description. Officer Davis arrived a short time later.

Officer Davis stood by as Officer Perez contacted Weiler regarding the arson investigation. Officer Perez

attempted to search Weiler, at which time Weiler suddenly, and quickly pulled an 8-inch wooden stake (shaved into a knife) and attempted to stab Officer Perez in the neck. Officer Perez fell back. Officer Davis believed Officer Perez had been stabbed. Both officers drew their duty firearms and repeatedly commanded Weiler to drop his weapon.

Officer Davis twice deployed his taser at Weiler. Though the taser darts contacted Weiler, they had no appear to have no impact whatsoever upon Weiler, who simply grabbed the taser darts, pulled them out, and tossed them aside. Despite being held at gunpoint by two officers, and in the face of commands to drop the weapon, Weiler maintained possession of the weapon and then advanced toward Officer Davis. In that moment, Officer Davis was faced with a suspect who had already made a sudden, unprovoked and potentially deadly assault upon another officer, and was impervious to less lethal taser deployments, and who refused commands to drop his weapon despite being held at gunpoint by two uniformed officers. When Weiler began advancing upon Officer Davis, Officer Davis fired upon Weiler, striking him times in the chest. Weiler fell to the ground and was taken into custody, but subsequently died from his injuries at Antelope Valley Hospital in Lancaster, CA.

Legal Principles and Analysis

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Penal Code Section 853a(b)). California Penal Code (PC) Sections 196 and 835a outline the circumstances under which a peace officer is authorized to use force, including deadly force.

Peace officers may use deadly force, when necessary, in defense of human life. (PC 835a(a)(2)). When determining whether deadly force is necessary, officers must evaluate each situation considering the particular circumstance of each case and shall use other available resources and techniques if reasonably safe and reasonable to an objectively reasonable officer. (PC Section 835a(a)(2)). The California Legislature has mandated that officers shall use de-escalation tactics if objectively reasonable based on the circumstances of the case. (PC Section 835a(a)(2)).

California law permits the use of deadly force by any person in defense of others, if (1) the individual reasonably believed that [the third party] was in imminent danger of being killed or suffering great bodily injury; (2) the individual reasonably believed that the immediate use of deadly force was necessary to defense [the third party] against that danger; and (3) the individual used no more force that was reasonably necessary to defend against that danger. (California Jury Instruction Criminal #505).

In this case, Officer Davis fired his weapon at Weiler only after Weiler attempted to stab Officer Perez and then only after Weiler ignored commands to drop the weapon and advanced toward Officer Davis. Weiler ignored numerous verbal commands by both Officers Perez and Davis to drop his weapon and continued to resist. Officer Davis attempted to employ less lethal options by deploying his taser – twice – neither of which had any effect in stopping the deadly threat posed by Weiler. Officer Davis was exposed and unable to retreat to a position of safety without turning his back on Weiler, which would have exposed him to further danger. Additionally, Weiler's assault upon Officer Perez was sudden, quick, and unprovoked

Weiler's actions placed both officers, most notably Officer Davis, in imminent danger of being killed or suffering great bodily injury. The use of deadly force was necessary to overcome Weiler's resistance to the execution of his lawful arrest, given that he was armed with a deadly weapon, attempted to use that deadly weapon to stab Officer Perez, failed to comply with repeated orders to drop his weapon, failed to

stop resisting despite the deployment of two tasers, and advanced towards Officer Davis while still armed with a deadly weapon.

Conclusion

Based on a review of the evidence submitted by the California Highway Patrol and the Kern County Sheriff's Office, Officer Davis responded reasonably to a lethal threat of himself and others. There is no state criminal liability for the use of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Zimmer". The signature is written in a cursive style and is positioned above a horizontal line.

Cynthia Zimmer
Kern County District Attorney