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October 28, 2022

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

Re: BPD Officer-Involved Shooting Of Robert Vaughn On June 13, 2022
Officer Robert Johnson
Lowry Street and Encino Street, Bakersfield
Documented in BPD case 2022-114536

Dear Chief Terry,

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed 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 Officer Involved Shooting Committee has completed its review. The findings are noted below.

Summary

Just after 4:00 am on June 13, 2022, officers from the Bakersfield Police Department responded to the Chevron Station located at 2301 Panama Lane. There, officers contacted the clerk, David Garcia, who told them that an older white man with a mustache and tattoos on his chest had threatened to shoot him if he did not release woman being held in the store against her will. According to Garcia, the man was holding a gun in his right hand, down at his side. Garcia locked the doors and said the man drove off in a minivan with purple rims and a red blanket on the driver's side window.

While at the Chevron, an unknown subject told the officers that a minivan matching the description was just west of their location in the Denny's parking lot at 2309 Panama Lane. Officers Robert Johnson and David Peters-Gremling went to the Denny's and attempted to contact Robert Vaughn, who was standing outside of a minivan matching the description provided earlier. As the two officers got out of their patrol vehicle, Vaughn got into the minivan and drove off. The officers pursued with their lights and siren activated. The pursuit lasted for approximately one-and-a-half miles, never exceeding 40 mph, and ended on the 6800 block of Lowry Street where Vaughn ran out of gas.

Vaughn exited the minivan with a gun in his hand and fired two shots from a high-ready position while just outside the driver's side door of the minivan. Officer Johnson responded by firing five shots while positioned just outside the driver's side of his patrol vehicle. Vaughn ran eastbound on Encino Street, turning to fire once more from the middle of the block. Officer Johnson immediately again returned fire with two more shots as he pursued Vaughn eastbound on Encino Street. Officer Peters-Gremling called for backup as he joined the foot pursuit. Officers found Vaughn hiding underneath a vehicle in the driveway at 6830 Betty Street with a 9 mm semi-automatic pistol near his left hand.

Vaughn was taken into custody without any further incident. Fortunately, neither Vaughn nor either of the officers were struck by any gunfire during these events.

Legal Principles and Analysis

Robert Vaughn's actions demonstrated a clear threat to both Officer Johnson's and Officer Peters-Gremling's lives. At the time Officer Johnson first fired his duty weapon, Vaughn had already fired two rounds at the officers and remained armed. During the subsequent foot pursuit, Vaughn fired another round at the officers and then turned to his left again, prompting Officer Johnson to fire two more rounds.

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. *California Penal Code* section 196 and section 835a outline the circumstances under which a peace officer is authorized to use force, including deadly force.

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

California law permits the use of deadly force by any person if: (1) the individual reasonably believes that he or someone else 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 defend against that danger; and (3) the individual used no more force than was reasonably necessary to defend against that danger. (Judicial Council of California, Criminal Jury instructions (CALCRIM) 505.)

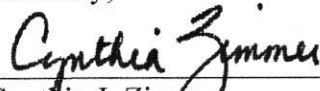
In this case, it was still dark out when the vehicle pursuit ended on a dimly lit residential street. Robert Vaughn got out of the minivan and fired two shots from a high-ready position. Officer Johnson fired his duty weapon at Robert Vaughn only after Vaughn fired two shots at the officers. Up to this point, Vaughn had repeatedly refused the lawful commands from the officers in the Denny's parking lot and on Lowry Street. Officer Johnson fired two more shots on Encino Street only after Vaughn fired at them again and was turning to his left during a foot pursuit.

The use of deadly force was necessary to overcome Vaughn's resistance to the officer's lawful attempts to detain and arrest him. This resistance escalated to the point where Vaughn fired on the officers. Vaughn's willful resistance at that point represented a clear and present danger to the lives and safety of the officers and other members of the community who lived in this residential area.

Conclusion

Based upon a review of the evidence submitted by the Bakersfield Police Department, Officer Johnson responded reasonably to a lethal threat in self-defense and defense of others. There is no state criminal liability for their uses of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Zimmer". The signature is written in a cursive, flowing style.

Cynthia J. Zimmer
Kern County District Attorney