



OFFICE OF THE
DISTRICT ATTORNEY
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County of Shasta

Benjamin L. Hanna
Chief Deputy District Attorney

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Chief Investigator

May 13, 2022

Chief of Police Bill Schueller
Redding Police Department
777 Cypress Avenue
Redding, CA 96001

RE: December 2, 2020 Officer-Involved Shooting
Shasta County Sheriff's Office case 20S038084
Redding Police Department case 20R079262
Involved Officer: Corporal Garrett Maxwell
Involved Person: Dolores Hernandez (DOB 09/29/61)

Chief Schueller:

The Shasta County District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting incident. For purposes of this review, the District Attorney's responsibility is to review the evidence and decide whether there is sufficient evidence to support the filing of criminal charges. Issues of policy, training, tactics, or civil liability were not considered. For the reasons set forth below, we conclude that the shooting was lawful.

Consistent with county-wide officer-involved shooting protocol, the lead agency in this investigation was the Shasta County Sheriff's Office, with the assistance of the Shasta County District Attorney's Office, the Redding Police Department, and the California Highway Patrol. In conducting the investigation, investigators and deputies from the Shasta County Sheriff's Office and allied agencies interviewed witnesses and collected physical evidence to gain a full and complete picture of the events that resulted in the fatal shooting of Dolores Hernandez. The findings of the District Attorney are based upon a review of all the material compiled in the multi-agency investigation.

FACTUAL SUMMARY

On December 2, 2020, at approximately 6:29 p.m., officers from the Redding Police Department were dispatched to the Mod Pizza restaurant in the Discovery Village Shopping Center on Dana Drive in Redding, on a report of a woman causing a disturbance in the restaurant. The woman causing the disturbance was later identified as Dolores Hernandez, the decedent in this case.

At the time of the call, the businesses in the shopping center were open for business, and there were numerous civilians in the area patronizing the businesses. Two officers were dispatched to this call for service, Corporal Garrett Maxwell and Officer Matthew Bruce. Both officers arrived within seconds of each other. Both officers were in full uniform, and driving marked police vehicles.

When the officers arrived, Ms. Hernandez was sitting in her Toyota Camry, outside the pizza restaurant. A security guard pointed out Ms. Hernandez as the person involved in the disturbance. Officer Bruce approached the driver side window to speak with Hernandez, while Corporal Maxwell spoke to the security guard.

As Officer Bruce approached the vehicle, he noted that Ms. Hernandez was playing music on her car stereo extremely loudly. Upon arriving at the window, Officer Bruce knocked on the window. Initially, Ms. Hernandez did not respond to his knocking. Instead, she stared ahead. After repeated knocking, however, she turned to face him. She turned the music down and rolled her window down about 2 inches. Officer Bruce asked her what was happening, and Ms. Hernandez replied by telling the officer that he had no right to speak to her. Officer Bruce continued to try to engage her in conversation, telling her she was not in trouble and that he was just trying to figure out what was going on. Ms. Hernandez continued to be argumentative, at one point telling Officer Bruce that he and all other police officers were "murderers", and that they would "be brought to justice in the name of Jesus Christ." Bruce responded by requesting Hernandez' driver license. She refused to provide her license. Officer Bruce explained why he needed to see her license. Hernandez still refused to provide it, telling the officer "Fuck you."

At this point, Hernandez rolled up her window, put her car in reverse, and began to pull backwards out of the parking spot. The officers then began to walk away from her vehicle and toward the sidewalk area. The plan was to let Hernandez leave, since her departure would have ended the conflict caused by her disturbance at the location.

As the officers began to walk away, Hernandez suddenly drove forward, coming within inches of striking Officer Bruce. She also screamed "Fuck you" to the officer while making an obscene gesture. With these developments, Officer Bruce now believed that he needed to detain Hernandez as it would have been unsafe to allow her to continue to drive. He also believed she had committed a felony by assaulting him with a vehicle.

In an attempt to stop Hernandez, Officer Bruce attempted to use his baton to break the driver's window so he could pull Hernandez out of the vehicle and prevent her from engaging in further dangerous activity. As Officer Bruce began to strike the vehicle window with his baton, Hernandez again put the vehicle into reverse, she then reversed while turning her wheels towards Officer Bruce. This movement caused the vehicle to roll over Officer Bruce's leg,

pulling him down and pinning him under the front left wheel. Officer Bruce was now pinned to the ground with the car on his knee.

While Officer Bruce was attempting to break the vehicle window with his baton, Corporal Maxwell used a knife to try to stop the vehicle by puncturing the left rear tire. His attempt was unsuccessful and he soon became aware that Officer Bruce was pinned under the vehicle. Maxwell was also able to observe the demeanor of Hernandez. He saw nothing that indicated that her actions were an accident. On the contrary, it appeared to Maxwell that Hernandez was acting intentionally to kill Officer Bruce.

By this point, Officer Maxwell had taken his firearm from its holster. As he assessed the situation, he believed that Hernandez would drive over Bruce again, thereby killing him. During this time, Officer Bruce called out to Maxwell, "Shoot her". Independent of this instruction from Bruce, Maxwell had also decided that deadly force was necessary.

Keeping in mind the numerous other people in the area, Corporal Maxwell engaged Hernandez, firing at her through the driver door window. Maxwell fired a total of seven rounds from his duty weapon, a .40 caliber semiautomatic handgun. Hernandez was struck by the rounds. Due to her incapacitation, the vehicle rolled forward, ultimately striking a parked car. As the car rolled forward, Officer Bruce was freed from his position under the vehicle. He was able to move to safety.

Hernandez was pronounced dead at the scene. A later autopsy determined her cause of death to be multiple gunshot wounds.

Officer Bruce was taken by ambulance to the hospital where he was treated for his injuries.

As part of the investigation, both Corporal Maxwell and Officer Bruce provided statements to detectives. Detectives also interviewed numerous civilian witnesses who were present in the area at the time of the incident. One of the witnesses provided a cell phone video of the incident. Additionally, physical evidence from the scene was analyzed.

Investigators also looked into the background of Ms. Hernandez in an attempt to ascertain the reasons for her behavior. They found that she had come to Redding on the day of the incident from Marysville, California. She had no known connections to Redding or Shasta County. According to family members, Hernandez had a history of mental health issues and had frequently been confrontational and belligerent with law enforcement officers. Hernandez had no criminal history.

LEGAL STANDARD

Penal Code section 835a sets forth the law regarding peace officers' use of deadly force. Peace officers may only use deadly force when necessary in defense of human life, taking into consideration the particular circumstances of each situation (Section 835a(a)(2)). "The decision of an officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight" (Section 835a(a)(4) and (e)(3)).

An officer may use deadly force "to defend against an imminent threat of death or serious bodily injury to the officer or to another person" (Section 835a(c)(1)(A)).

An officer who is attempting to make an arrest is not required to retreat if the person whom the officer is attempting to arrest resists or threatens to resist (Section 835a(d)).

Deadly force is defined as “any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm (Section 835a(e)(1)).

An imminent threat is one in which “a person has the present ability, opportunity and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person” (Section 835a(e)(2)).

LEGAL ANALYSIS

In applying the above legal standard to the facts of this case, it is important to consider a number of factors including the circumstances leading up to the deadly force event. These factors include the officer’s training and experience as it relates to the threat he was facing, and, most importantly, the totality of the facts known to the officer at the time he used the deadly force.

Corporal Garrett Maxwell was a 12-year veteran of the Redding Police Department at the time of the shooting. He was also a member of the SWAT team and trained others in the use of deadly force.

On December 2, 2020, immediately before the deadly encounter, the following facts and circumstances were known to Corporal Maxwell:

Corporal Maxwell was standing next to Hernandez’s vehicle and watched as she intentionally drove her vehicle at him and Officer Bruce. Hernandez was angry and belligerent, and her actions in no way could be interpreted as an accident. Her actions posed an imminent threat to both the officers and the many civilians in the area of the busy shopping center. That imminent threat became actual physical harm when Hernandez struck Officer Bruce with the front of her car and ran over his leg pinning him under her car. With the weight of the vehicle on Officer Bruce, she stopped the car and started to drive over him again. Corporal Maxwell was forced to act quickly to stop the threat. Hernandez was noncompliant and was actively assaulting an officer with a deadly weapon. Her window was rolled up, so Maxwell had no means to stop her via less lethal means such as a baton, taser, or pepper spray. His only option was to use deadly force. Corporal Maxwell fired his .40 caliber handgun through the driver’s window, striking and killing Hernandez. Corporal Maxwell’s actions ended the threat, and Officer Bruce and others were saved from death or serious injury.

At the time that Corporal Maxwell shot Hernandez, she had just driven at him and Officer Bruce with her vehicle, hitting Officer Bruce and pinning him under her driver’s side front tire. Hernandez’s actions clearly exhibited “the present ability, opportunity and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person.”

Facing the imminent threat posed by Hernandez and actual physical harm inflicted by her, Corporal Maxwell chose to use deadly force to end that threat.

CONCLUSION

Under these circumstances, Corporal Maxwell was justified in using deadly force in response to Hernandez's actions. I find the shooting to be lawful and will take no further action in this matter.

Sincerely,

A handwritten signature in blue ink, reading "Stephanie Bridgett". The signature is written in a cursive style with a large initial "S" and "B".

STEPHANIE A. BRIDGETT
DISTRICT ATTORNEY

Cc: Sheriff Michael Johnson