



OFFICE OF THE
DISTRICT ATTORNEY
Stephanie A. Bridgett
County of Shasta

Benjamin L. Hanna
Chief Deputy District Attorney

Joseph Hendrix
Chief Investigator

December 2, 2022

Chief Bill Schueller
777 Cypress Avenue
Redding, CA 96001

RE: April 6, 2021 Officer-Involved Shooting
Redding Police Department case 21R022377
Shasta County Sheriff's Office case 21S011169
Anderson Police Department case 21A003448
Shasta County District Attorney BOI #21GC0290
Involved Officer: Jason Rhoads
Involved Person: Devin Kuykendall (08/15/94)

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 determine whether there is sufficient evidence to support the filing of criminal charges. Issues of training, tactics, or civil liability were not considered. For the reasons set forth below, we conclude that the shooting was lawful.

The lead agency in this investigation was the Redding Police Department, with the assistance of the Shasta County District Attorney's Office, Shasta County Sheriff's Office and the Anderson Police Department. In conducting the investigation, investigators and officers interviewed witnesses and collected physical evidence in an effort to gain a full and complete picture of the events that resulted in the fatal shooting of Devin Kuykendall. The findings of the District Attorney are based upon a review of the totality of the materials compiled in the multi-agency investigation.

FACTUAL SUMMARY

On April 6, 2021, Redding Police Officer Hull was on patrol in the area of downtown Redding when he received an alert in his patrol vehicle from a LoJack transponder alerting him to a possible stolen vehicle in the area. The stolen vehicle was identified as a 2004 Ford F-250 pickup truck with a license plate of 8Y32780. The signal for the transponder led officers to the area of Lanning Avenue and Fell Street in the Parkview neighborhood. Redding police officers began looking for the vehicle. At around 1:14 pm, Redding Police Officer Stewart located the truck near the intersection of Lanning Avenue and Fell Street. The truck had a license plate displayed not associated with the vehicle. This is a common method used by thieves to attempt to disguise stolen vehicles. Officer Stewart attempted to conduct a traffic stop on the vehicle. The driver accelerated quickly away from him and other officers. The driver, later identified as Devin Kuykendall, drove at speeds and in a manner so reckless that a police supervisor ordered the pursuit discontinued due to public safety concerns.

After police ended the pursuit, they remained in the area looking for the vehicle. At the intersection of Sutter Street and South Market Street (Highway 273). Kuykendall, still driving the vehicle, ran the posted stop sign and collided broadside with a vehicle travelling through the intersection. This collision caused the stolen truck driven by Kuykendall to become disabled.

Kuykendall then fled the vehicle on foot, leaving behind the truck's sole passenger, his girlfriend. She fled from the vehicle in a different direction. Before leaving the truck, Kuykendall grabbed a Ruger Mini-14 .223 caliber semiautomatic rifle.

Shortly after the end of the pursuit, Redding Police Officer Mack observed the traffic collision caused by Kuykendall. Officer Mack saw Kuykendall get out of the truck armed with the rifle and run across Highway 273 and into a residential neighborhood.

Officer Mack activated his emergency lights on his patrol motorcycle and followed Kuykendall onto Veda Street and then onto Terrill Street. Once on Terrill Street, Kuykendall fired one round from the rifle into the air. Officer Mack notified other officers via radio that Kuykendall had discharged the rifle. Officer Mack accelerated to close the distance between himself and Kuykendall in order to detain Kuykendall and prevent him from firing the rifle again. Kuykendall then turned toward Officer Mack and fired two additional rounds at Officer Mack. Officer Mack was forced to take cover, but watched as Kuykendall ran westbound across the railroad tracks and onto Railroad Avenue. Officer Mack continued to monitor Kuykendall's movements from the east side of the railroad tracks until additional officers arrived on the scene.

As these events were being broadcast over the radio, numerous additional Redding Police officers began to converge on the scene in an attempt to stop Kuykendall. Officer Lensing chased Kuykendall as Kuykendall ran up Railroad Avenue. Officer Lensing ordered Kuykendall to drop the rifle and stop running. Kuykendall ignored Officer Lensing and continued up Railroad Avenue.

Kuykendall ran onto Court Street and into another residential neighborhood. Officers Smiler and Kuyper saw Kuykendall running and ordered him to stop and put down the rifle. Kuykendall ignored these officers and ran further up Court Street. Officer Mack ran across the railroad tracks and joined other officers in the pursuit of Kuykendall.

In this second neighborhood Kuykendall ran up to a residence, knocked on the door and went into garage. The resident saw that Kuykendall had a rifle in his possession and did not open the door. Kuykendall exited the garage and fired another round from his rifle in the resident's driveway. Officers Smiler and Kuyper could hear the gunshot coming from Kuykendall's location. Kuykendall then continued to run up Court Street. A shell casing matching the weapon used by Kuykendall was later located in the area where he fired this shot.

Kuykendall ran toward another residence. In front of this residence was a pick-up truck with an open driver's door. Officers were afraid the driver of the truck or the resident of the house would be robbed, carjacked, or otherwise assaulted by Kuykendall. Luckily, officers did not see any other person at the location.

Throughout Kuykendall's flight from officers and the resulting pursuit, numerous officers gave Kuykendall commands to stop, put down the rifle, and surrender. He disregarded these commands.

Ultimately, Kuykendall took cover behind the open truck door and fired another round from his rifle. Officers were concerned that Kuykendall may have been firing at the CHP helicopter flying overhead. Kuykendall then turned back toward the officers. Officers feared that Kuykendall was preparing to shoot at officers again.

By this time, Officer Rhoads had taken a position approximately 50 yards from Kuykendall. When he saw Kuykendall turn toward the officers' position with the rifle, Officer Rhoads fired his Redding Police Department-issued rifle at Kuykendall several times. One of the rounds fired by Officer Rhoads struck Kuykendall and Kuykendall fell to the ground.

After he fell to the ground, officers observed that Kuykendall had his finger on the trigger of the rifle. Concerned that he could still pose a threat, they utilized a less-lethal shotgun and police canine. Once they determined that Kuykendall no longer appeared to be a threat, they took him into custody and provided him with medical attention. Kuykendall was pronounced dead at the scene.

An autopsy was conducted on Kuykendall and his cause of death was determined to be a gunshot wound to the neck, which severed his spinal cord.

LEGAL ANALYSIS

California law allows a peace officer to use reasonable force to detain or arrest a person, prevent the person's escape, or overcome the person's resistance if the force used is reasonable and if the officer has reasonable cause to believe that the person has committed a public offense or is a danger to others. (California Penal Code section 835a, CALCRIM 2670.)

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 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)).

Whether force is reasonable is judged from the perspective of a reasonable officer on the scene. The concept of reasonableness should allow for the often split-second decisions that officers are forced to make in rapidly evolving situations. (*Graham v. Connor* (1948) 490 U.S. 386.)

In this case, Kuykendall was driving a truck that had been reported as stolen. He fled from officers at such a high rate of speed and with such recklessness that officers called off the pursuit to protect the public. Continuing his reckless driving, Kuykendall ran a stop sign and crashed the stolen truck into another motorist.

Kuykendall fled the truck armed with a rifle. He fired multiple rounds from his rifle, including several rounds at pursuing police officers. It was apparent that Kuykendall knew that officers were following him and he did not intend on being arrested.

Kuykendall's actions also put civilians in danger. He fled, armed, through residential neighborhoods, firing his rifle at least once in the area of an occupied home.

At the time Officer Rhoads used deadly force, Kuykendall had taken cover behind the door of the truck, fired another shot from his rifle into the air and turned back toward the officers who were pursuing him. He still had the rifle in his hands and was in a position to fire upon the officers. This behavior was the culmination of a violent desperate attempt by Kuykendall to evade capture.

Kuykendall clearly posed an imminent threat to all of the officers and civilians in the busy residential and commercial areas through which he passed. He possessed a loaded rifle, which gave him both the ability and opportunity to cause death or serious injury to others. Further, his intent was clearly shown by his actions. He shot at officers multiple times and also shot recklessly as he fled the pursuit.

Kuykendall's actions clearly showed that he was willing to do whatever it took, including shooting police or civilians, to escape custody. Based on his actions, Kuykendall posed an imminent threat. Therefore, Officer Rhoads actions in shooting Kuykendall were justified under the circumstances.

CONCLUSION

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

Sincerely,



STEPHANIE A. BRIDGETT
DISTRICT ATTORNEY

cc: Bill Schueller, Redding Police Department
cc: Michael Johnson, Shasta County Sheriff's Office