



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

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Chief Deputy

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MEMORANDUM

DATE: September 23, 2019

TO: Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting: Case No. 18-187494
Shooting Officers: Alexander Spencer #984
David Benjamin #1262
Person Shot: Ricardo Jauregui (DOB 6/19/79)

The District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Ricardo Jauregui. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento Sheriff Department report number 18-187494; dispatch logs and audio recordings; witness interview recordings; in-car camera video; and crime scene video and photos.

FACTUAL SUMMARY

On June 3, 2018, at approximately 4:05 a.m., Joshua Griffin called 9-1-1 from his residence near Dave Street and Bruns Way in Sacramento County. The dispatcher could not hear Griffin and the phone call got disconnected. The dispatcher attempted to return the call but was unsuccessful. Sacramento Sheriff Deputies David Benjamin and Alexander Spencer responded to Griffin's address to investigate.

When the deputies arrived at approximately 4:20 a.m., the street was extremely dark. The deputies began to walk around the house when they heard someone "talking angrily" to himself. Deputy Spencer observed Griffin standing on the driveway. The deputies communicated with Griffin, and Griffin confirmed he called 9-1-1. Griffin told the deputies that he was having

difficulty with his telephone, which is why he was unable to speak to the dispatcher. Griffin told the deputies that his wife and children had moved out of their residence, and he had not seen them in a couple of months. Griffin believed they were at Ricardo Jauregui's house, a neighbor who lived on Bruns Way at the end of the cul-de-sac. Griffin requested the deputies go to Jauregui's house, check on his children, and determine if the children wanted to visit Griffin. The deputies agreed and walked over to Jauregui's residence. Griffin remained on his driveway.

Deputies Spencer and Benjamin walked up the driveway of Jauregui's house. Deputy Spencer heard the sound of a round being chambered into a firearm. Deputy Spencer yelled, "Gun! Gun! Gun!" as he ran to his right onto the front lawn looking for cover. Deputy Benjamin observed Jauregui quickly moving from the side fence on the left side of the house into the front yard of the home along the left side of the driveway. Jauregui yelled, "Get the fuck off my property!" and something like, "Get out of here, you crazy person." Deputy Benjamin saw an object in Jauregui's right hand and believed Jauregui was holding a gun. Deputy Benjamin turned and retreated to the street. Deputy Benjamin then turned back around and drew his weapon. He observed Jauregui holding a gun in his right hand above his waist. Deputy Benjamin believed Jauregui was going to shoot him, so he fired four shots at Jauregui. Meanwhile, Deputy Spencer, who had been unable to find cover on the lawn, dropped his flashlight and drew his handgun. Seeing Jauregui holding the gun with two hands pointing it in the direction of Deputy Benjamin, Deputy Spencer fired four shots at Jauregui. He stopped firing his handgun when Jauregui fell to the ground.

After Jauregui was prone on his front lawn, he yelled, "I'm sorry, I'm sorry." The deputies approached him and determined he was shot in the right upper arm. Deputy Spencer requested medical assistance for Jauregui. Sacramento Metropolitan Fire District personnel and paramedics arrived, provided treatment, and transported Jauregui to Kaiser Permanente South Sacramento Medical Center for his non-life-threatening injury.

A Glock Model 27 .40 caliber semi-automatic pistol was recovered approximately four feet from where Jauregui fell. One hollow-point round was located in the chamber of the gun. There were seven additional rounds loaded in the magazine.

Jauregui was interviewed by investigators. He stated Griffin's wife and children had never been to Jauregui's house. Griffin's wife left Griffin's house about one month ago. Griffin's father told Jauregui that Griffin was "going off." Griffin had gone to another neighbor's house two days earlier and asked where Griffin's wife and children were. The neighbor kept his shotgun by his door because of Griffin's behavior. Jauregui described Griffin as "crazy."

Jauregui also told investigators that prior to the shooting, he was asleep when he heard screaming and yelling outside. Griffin was yelling Jauregui's name and also saying his neighbor's name. Griffin said that Griffin's wife and children were at Jauregui's house and he wanted them back. Jauregui woke up his mother. They went to the side gate of their house and listened to Griffin. Jauregui retrieved his Glock handgun from the garage to scare Griffin. Jauregui was concerned Griffin was going to hurt him. Jauregui opened his side gate and rushed out. He went around a large bush in the side yard and the motion-activated light in his driveway turned on. Jauregui saw the deputies' flashlights illuminating the trees, but he thought it was Griffin's cell phone

light. Jauregui yelled, “Get the fuck off my property!” when he exited his side yard. Jauregui had his gun at his side, and possibly raised it up, but he did not recall aiming it. Jauregui saw the shine of a badge and the deputy’s hat with its yellow writing. Jauregui heard, “Put the gun down.” The deputies shot Jauregui, and he dropped his gun and fell to the ground. When asked to view the situation from the officers’ perspectives, Jauregui told investigators, “They have every right to do what they did. . . . I got shot for a reason because I had a gun out. I know that. That’s my fault.”

Investigators also interviewed Stephen Griffin, the father of Griffin.¹ Stephen stated Griffin lived with him. Over the past three weeks, Griffin used drugs and became paranoid. Griffin’s wife moved and did not want contact with Griffin due to his behavior. Stephen did not know why Griffin believed his wife and children were at Jauregui’s house. Stephen had been trying to get Griffin in to a hospital to be mentally evaluated.

LEGAL ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 505, 507, 3470.) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the officer may employ all force reasonably believed necessary. (CALCRIM 3470.) The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The calculus of reasonableness must embody allowance for the fact that police 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* (1989) 490 U.S. 386.)

Here, Deputies Spencer and Benjamin responded to Jauregui’s residence based on Griffin’s request to check on his family. As they walked up to the driveway, the deputies were confronted by Jauregui chambering a round in his gun, demanding that they get off his property, and running towards them on a dark street. While the deputies were retreating from Jauregui, they observed Jauregui holding a gun in a position consistent with shooting them. The deputies did not know that Jauregui’s intent was to frighten Griffin. Although inadvertent, Jauregui displayed deadly force to the unsuspecting deputies. Given the totality of Jauregui’s words and conduct, it was reasonable for Deputies Spencer and Benjamin to believe they were in imminent danger of death or great bodily injury.

¹ Because he shares the same last name as his son, Stephen Griffin will be referred to as “Stephen” throughout this memorandum for ease of reference; no disrespect is intended.

CONCLUSION

Deputies Spencer and Benjamin were justified in shooting Jauregui in self-defense and in defense of each other. Their conduct under these circumstances was lawful. Accordingly, we will not take further action in this matter.

Cc: Sacramento Sheriff Detective Ralph Garcia
Sacramento Sheriff Deputy David Benjamin
Sacramento Sheriff Deputy Alexander Spencer
Sacramento Sheriff Sergeant Ken Clark
Sacramento Sheriff Sergeant Tony Turnbull
Sacramento Sheriff Sergeant Steve Girdlestone
Sacramento Sheriff Lieutenant Gail Vasquez
Office of the Inspector General