

County of Santa Clara

Office of the Sheriff

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Laurie Smith
Sheriff

MEMORANDUM

To: Undersheriff John Hirokawa

From: Sergeant Gregory Davis #1799 *GD 1799*
Internal Affairs Unit

Date: March 8, 2012

Subject: Internal Affairs Case IA 11-022
Review of Officer Involved Shooting

Involved Parties:

Involved Employees: Deputy John Gonzalez #1882

This report is an administrative review, conducted by Internal Affairs, of an officer-involved shooting involving Deputy John Gonzalez #1882, which occurred on 08/29/11. The complete case file, containing the Sheriff's Office original report #11-241-0363C, including supplements, and a CD-ROM of the radio traffic associated with the detail, is contained in a binder in Internal Affairs, filed in the "O.I.S." cabinet. The Sheriff's Office report totals 220 pages, and contains a face sheet, a suspect page, 12 additional-parties pages, 27 evidence pages, 36 supplemental reports, photograph, video, and audio CD's and DVD's #A-N and #1-21, a crime-scene log, a photo log, a recording log, an involved parties list, and the main report, written by Detective Sergeant R. Elder #1792.

Executive Summary:

On 08/29/11, at approximately 2110 hours, Deputy John Gonzalez #1882 was on uniformed patrol in Cupertino and stopped a bicyclist at Tantau Avenue and Stevens Creek Boulevard. During this stop, Deputy Gonzalez saw another man, Kevin Quinnett, leaning into the passenger compartment of a vehicle parked on Tantau Avenue, west of the Loree Shopping Center. Mr. Quinnett began to act suspiciously, although Deputy Gonzales did not recognize him. Unprovoked, Mr. Quinnett approached Deputy Gonzalez and explained that he was looking for his vehicle keys that fell down between the seats. Deputy Gonzalez asked Mr. Quinnett for identification. Mr. Quinnett stated he did not have any and then he walked away eastbound,

behind the Loree Shopping Center. After completing his pedestrian stop with the bicyclist, Deputy Gonzalez did a computer check of the license plate of the vehicle into which Mr. Quinnett had been leaning. The return on his MDT showed that the vehicle was in the SVS system as a stolen vehicle.

Deputy Gonzalez advised radio of the situation and drove east, the direction Mr. Quinnett was last seen walking, searching for Mr. Quinnett. Deputy Gonzalez located Mr. Quinnett one block away in the Rotten Robbie gas station parking lot located at 19030 Stevens Creek Boulevard. Deputy Gonzalez gave verbal orders for Mr. Quinnett to stop and remain where he was. Mr. Quinnett was non-compliant and took five or six steps toward Deputy Gonzalez, stating he did not do anything. Mr. Quinnett then ran west on Stevens Creek Boulevard.

Deputy Gonzalez ran after Mr. Quinnett while giving verbal commands for Mr. Quinnett to stop, as well as updating radio about the situation. Mr. Quinnett then ran north across Stevens Creek Boulevard, into the dirt field located on the northwest corner of Tantau Avenue and Stevens Creek Boulevard, and then back south across Stevens Creek Boulevard. Deputy Gonzalez continued his foot pursuit of Mr. Quinnett.

As Deputy Gonzalez entered the eastbound lanes of Stevens Creek Boulevard, just west of Tantau Avenue, headlights approaching him from the west distracted him. Deputy Gonzalez looked at the approaching vehicle to ensure it was going to stop. Witness drove this vehicle. When Deputy Gonzalez looked back towards Mr. Quinnett, he saw that Mr. Quinnett had stopped running and was now facing Deputy Gonzalez. Deputy Gonzalez recognized that Mr. Quinnett was pointing a handgun at him and standing in a two-handed shooting position. Mr. Quinnett yelled, "I don't want to shoot you."

Fearing Mr. Quinnett was going to kill him, Deputy Gonzalez drew his firearm and gave verbal orders for Mr. Quinnett to drop his gun. Mr. Quinnett failed to comply and Deputy Gonzalez fired six shots, striking Mr. Quinnett once. Mr. Quinnett turned away from Deputy Gonzalez and retreated to the south side of Stevens Creek Boulevard, where he collapsed in the bushes in front of

Responding units arrested Mr. Quinnett, who had suffered a non-lethal wound to his right thigh. The units located a .177mm BB gun from where they arrested Mr. Quinnett. Mr. Quinnett was treated at the hospital and then booked into the county jail.

Review:

Sergeant W. Oberst and I responded to the scene, conducted a walk-through of the scene with the Investigations Bureau, and monitored their interview of Deputy Gonzalez. At the conclusion of the interview, Sgt. Oberst compelled a blood sample from Deputy Gonzalez, which was submitted to the County Crime Lab for processing. The Crime Lab's Report showed 0% of any alcohol or narcotic in Deputy Gonzalez's blood.

Beginning the evening of occurrence, and over the next several weeks, the Investigations Bureau conducted what I find to be a thorough and detailed investigation of this shooting. The investigating units:

- contained and professionally processed the scene,
- conducted an extensive canvas of neighboring residences,
- obtained supplemental reports from all deputies involved in the incident,
- interviewed EMS and medical personnel who attended to Mr. Quinnett,
- interviewed key Sheriff's Office personnel, including Deputy Gonzalez, and
- interviewed Mr. Quinnett.

Nothing in any interview conducted and no physical evidence found at the scene, in any way contradict or call into question the official statements made by Deputy Gonzalez, whose interview formed the Executive Summary written above. reported seeing Mr. Quinnett in a shooting stance, holding a pistol aimed at Deputy Gonzalez, and Deputy Gonzalez giving verbal commands, which included yelling, "Gun! Gun! Gun!," in the seconds leading up to the shooting. Residents from told investigators that they heard deputies shouting commands at Mr. Quinnett. These commands included "Put the gun down" and "Kick the gun away!"

After monitoring interviews conducted the evening of the incident, monitoring the interview with Deputy Gonzalez conducted the same evening, comparing all of those interviews with the written summaries and evaluations contained in the Sheriff's Office's report, reviewing the original radio dispatches, completing a thorough review of the Sheriff's Office Incident Report, and completing a thorough review of the Sheriff's Office's total investigation, it is my finding that:

While performing his lawful assigned duties, Deputy Gonzalez attempted to detain a person he had reasonable cause to believe was involved in the commission of a felony. The subject resisted Deputy Gonzalez's verbal orders, fled on foot in an attempt to escape apprehension, and then brandished a BB gun, representing it as a firearm, as he threatened Deputy Gonzalez. Upon clearly identifying the object as a potentially lethal weapon, and seeing that the subject was clearly representing that he intended to use the lethal force against Deputy Gonzalez, Deputy Gonzalez, fearing for his safety, lawfully discharged his weapon in his immediate defense.

I find no violation of any departmental policy or procedure by Deputy Gonzalez, up to and including the use of his firearm in this incident.

Mr. Quinnett was charged with 69 PC (with enhancements), 11377 HS, and multiple 10851 VC charges. Mr. Quinnett also has pending SJPD robbery cases.

At the time of this report, the Sheriff's Office report has been submitted to the Santa Clara County District Attorney's Office for review; Sergeant Elder received verbal notice from the District Attorney's Office indicating that this incident was a justified use of lethal force. A memorandum documenting that verbal statement is still forthcoming. There is no time estimate as to when that document will be available.

End of report.