

**LAW ENFORCEMENT EMPLOYEE-INVOLVED
CRITICAL INCIDENT REPORT**



Employer Agency: Sonoma County Sheriff's Office

Lead Agency: Santa Rosa Police Department

Injured Party: Ryan Joseph Pritel

Date of Incident: May 13, 2018

Report Prepared by:
SONOMA COUNTY DISTRICT ATTORNEY
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I. INTRODUCTION

On May 13, 2018, Ryan Joseph Pritel (hereinafter “Pritel”) was shot at, but not struck, during an incident involving Sonoma County Sheriff’s Deputy Michael Matelli. The incident occurred shortly before 11 a.m. at the Jolly Washer, at 19249 Highway 12 in the city of Sonoma. Pritel was not injured and was taken into custody for shooting Deputy Matelli.

The Sheriff’s Department invoked the Sonoma County Law Enforcement Employee- Involved Fatal Incident Protocol (“Protocol”), once Pritel was taken into custody. The purpose of this protocol is to set forth procedures and guidelines to be used by Sonoma County law enforcement agencies in the criminal investigation of specifically defined incidents involving law enforcement employees. Under this protocol an outside law enforcement agency is designated to investigate officer-involved critical incidents.

In this case, members of the Santa Rosa Police Department assumed responsibility for the investigation of the incident. Members of the Sonoma County District Attorney’s Office participated in the investigation in a supporting role, in accordance with the protocol. Under the protocol the role of the Sonoma County District Attorney’s Office is to review the investigation to determine if there exists any criminal liability on the part of involved parties, including the law enforcement employee(s); to provide assistance to the investigating agency regarding legal issues; to supplement the investigation when necessary; and, when appropriate, prosecute those persons believed to have violated the criminal law.

Once the investigation is complete the District Attorney is required by the protocol to complete a thorough review of the investigation and prepare a report summarizing the investigation and documenting her conclusions. A copy of this report is to be submitted to the foreperson of the Sonoma County Grand Jury.

This report includes a summary of facts surrounding the shooting of Pritel, a statement of the applicable law, legal analysis and conclusions. This report cannot include all of the information contained in the hundreds of pages of reports, video and audio tapes, transcripts, and photographs reviewed in its preparation. However, every effort has been made to include in this report a summary of all of the relevant, material evidence gathered by the Santa Rosa Police Department over the course of its extensive investigation of this incident.

II. SCOPE OF REVIEW

The purpose of the District Attorney’s investigation and review of any critical incident is to establish the presence or absence of criminal liability on the part of any involved party, including law enforcement employee(s).

The specific question to be resolved in this case is whether Deputy Matelli’s use of force was reasonably necessary under the circumstances to accomplish a lawful law enforcement purpose. A summary of the applicable law is included here to assist the reader in understanding this report and its conclusions.

The District Attorney does not examine issues such as compliance with the policies and procedures of any law enforcement agency, police training, or issues involving civil liability. This report should not be interpreted as expressing an opinion on those matters.

III. STANDARD OF REVIEW

The District Attorney is the chief law enforcement official of Sonoma County. The District Attorney is responsible for deciding what cases to prosecute and has the responsibility to review and approve the filing of all criminal cases in the county. The District Attorney's discretion in this regard is well defined. *The California Rules of Professional Conduct, Rule 5-110*, provides that prosecutors shall not institute criminal charges when the prosecutor knows or should know that the charges are not supported by probable cause. Additional restraint on the charging authority is found in the *Uniform Crime Charging Standards*, a publication of the California District Attorneys Association. These standards provide the following guidelines:

The prosecutor should consider the probability of conviction by an objective fact-finder hearing the admissible evidence. The admissible evidence should be of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact-finder after hearing all the evidence available to the prosecutor at the time of charging and after hearing the most plausible, reasonably foreseeable defense that could be raised under the evidence presented to the prosecutor.

In criminal cases, the District Attorney has the burden of proving guilt "beyond a reasonable doubt," the highest burden of proof found in the law. A complete definition of "reasonable doubt" can be found in the Judicial Council of California Criminal Jury Instructions Number 103. A jury of twelve must vote unanimously for guilt before a conviction may be entered. When determining whether criminal charges are appropriate the District Attorney must consider all of the evidence, including evidence that supports an affirmative defense, such as a claim of "self-defense" or "defense of others." Criminal charges are warranted only when the District Attorney determines that the evidence of guilt is of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after hearing all the admissible evidence, including evidence of such an affirmative defense.

IV. SUMMARY OF FACTS

The following is a summary of facts intended to assist the reader in understanding this report and its conclusions. It is not a substitute for the volumes of reports, interviews, and other evidence from which it is derived. It is, however, an accurate summary of what the District Attorney believes the material facts in this case to be.

A. BACKGROUND INFORMATION

Pritel was born April 24, 1998 and was 20 years old at the time of this shooting. Pritel resided

with his father at the time, though he had only returned to his father's home days prior to the shooting.

Pritel had long-standing issues relating to drug use and mental health.

B. EVENTS OF MAY 13, 2018

The Jolly Washer is a business attached to a gas station and convenience store. The property is on the corner of Highway 12 and Ramon Street in the city of Sonoma. The 76 gas station portion of the property fronts Highway 12, with an access driveway both from Hwy 12 and Ramon Street. The convenience store is directly behind the gas station and the Jolly Washer car wash entrance is to the north of the gas pumps and vehicles enter the queue for the car wash via the driveway off Hwy 12.

On May 13, 2018, at 1057 hours, the Sonoma Police Department received a call from an employee of the Jolly Washer, reporting that one of the other employees, later identified as Ryan Pritel, was 'acting crazy,' and that he had a BB gun tucked into his waistband. When the employee asked Pritel to either put the gun away or go home, Pritel refused to leave the premises by saying "Fuck You," making a rude gesture and asking the employee, "You wanna get shot?"

Sonoma County Sheriff's deputies Hals, Matelli and Schemmel arrived within minutes of one another and entered the convenience store on the property to get further information from the employees. Once inside the store, deputies learned the employee saw a gun in Pritel's waistband that was clearly visible, though the employee did not know if it was a real gun. The Deputies determined that Pritel was no longer welcome on the property with the firearm and went outside to assess the circumstances, pat down Pritel and address the situation as it evolved.

Deputy Matelli, a motorcycle officer, was in full uniform and still wearing his department issued helmet when he left the convenience store to speak with Pritel. Deputies Hals and Schemmel were also in fully marked Sheriff's uniforms. Matelli approached the area where Pritel was engaged in washing a Silver Chevy Silverado and called out to Pritel, "hey Ryan, come here real quick," and "keep your hands where I can see them." As soon as Deputy Matelli called out to Pritel, Pritel reached toward his waistband with his right hand and removed a black handgun, then ducked behind the Chevy Silverado. Upon seeing the weapon, Deputy Matelli un-holstered his firearm, pointed it at Pritel and yelled again, "Hey, keep your hands where I can see, drop it, right now!" Pritel fired his weapon at Deputy Matelli, striking him in the face, abdomen and arm with snake shot. Deputy Matelli returned fire two times in rapid succession then retreated toward the convenience store doors where he announced that he had been struck.

Deputy Hals observed that as Deputy Matelli made the request for Pritel to approach, Pritel removed a handgun from his waistband. Deputy Hals was unable to determine whether the gun was a firearm or a BB gun at that point. Someone yelled "Drop it, drop the gun," and at that point Deputy Hals un-holstered his duty firearm. Deputy Hals heard multiple gun shots and heard Deputy Matelli say, "I'm hit!" Deputy Hals announced over the radio "shots fired, shots fired, Officer down," and he and Deputy Schemmel moved toward the front of the Chevy Silverado when Deputy Hals saw a handgun 'fly out,' and skate across the ground in front of him. Deputy Hals yelled "show your hands now," Deputy Schemmel yelled, "Get on the ground," and other commands. Pritel complied and deputies Hals and Schemmel were then able to contact and handcuff Pritel safely.

Deputy Schemmel was walking outside from the convenience store when he heard someone say something akin to “Let me see your hands,” and believes he may have heard someone say, “Gun.” Deputy Schemmel un-holstered his firearm and was able to see Pritel near the rear of the Chevy Silverado, holding a black handgun. Deputy Schemmel then heard three gun shots and heard over his radio that someone had been shot. Deputy Schemmel could not see Pritel at that point. Deputies Schemmel and Hals approached the front of the Chevy Silverado and saw a handgun thrown out onto the ground, and Deputy Schemmel believed he heard Deputy Hals yelling, “Get on the ground! Get on the ground,” and that he, Deputy Hals was also yelling something similar. Pritel went down to the ground with his hands out in front of him. Deputy Schemmel holstered his firearm and handcuffed Pritel while Deputy Hals kept his gun on Pritel. Deputy Schemmel searched Pritel and found a loaded handgun magazine in his shorts pocket.

The occupant of the Chevy Silverado truck stated that he was in the driver’s seat of his truck, which had just finished the ‘prep wash’ process. The truck driver rolled down his front passenger side window so that a worker (later identified as Pritel) could place his truck antenna into the car while it went through the automated wash. The truck driver reached across the front seat to take the antenna from the employee and bent down to place the antenna on the passenger side floor. The truck driver then heard a shot or shots and felt a piece of glass strike him on the right side of his face. The rear window and passenger side window of the Silverado were broken out. The truck driver heard yelling and statements for someone to get down, profanity, some unintelligible statements about shooting and further noises he described as a ‘ruckus.’ The truck driver stayed down until after the situation had calmed down.

Deputies Schemmel and Hals took Pritel into custody without further incident, and while being taken to the patrol car, it was reported that Pritel yelled statements similar to, “you did this to me, why didn’t you kill me, why don’t you just kill me.” When searched a loaded magazine was found in his shorts pocket on Pritel’s left side.

C. EVIDENCE COLLECTED

Surveillance video collected from the 76 Station that shares property with the Jolly Washer shows Pritel initially pre-washing a silver Chevy Silverado pickup truck, removing the antennae from the truck and placing it inside the cab. Pritel moved to the bed of the truck and appeared to be looking in the direction of the deputies’ approach. Pritel initially picked up a pressure washer and began to spray the truck, but put the washer down quickly. Pritel is seen moving his hand near his waist, removes a dark object from his waistband, ducks down behind the truck, only to quickly pop up again. Pritel then appears to aim and fire in the direction of the deputies and duck behind the truck again. Pritel then threw the gun in the direction of the deputies and got down on the ground as they approached him.

Deputy Hals located the gun on scene and secured the weapon. The gun was a black, FM Hi-Power Albatross International 9mm handgun. While rendering the firearm safe, Deputy Hals made several observations. Deputy Hals observed that the magazine was a 9mm magazine that was loaded with both standard ammunition and what he described as ‘snake shot.’ When Deputy Hals cycled the slide to determine if a round was in the chamber, a casing fell out that had markings indicating to him that it may have jammed inside the chamber. Upon further examination by an evidence technician, it was determined that the ammunition recovered from the gun and suspect included four live CCI 9mm Luger snake shot rounds, and twenty live 9mm Luger full copper jacket rounds.

The silver Chevrolet Silverado that Pritel hid behind was searched for evidence, including expended bullets and damage. A potential bullet point of entry was located on the driver's side wheel well. Upon removal of the wheel well cover one bullet was located and fell out of the wheel well. A second bullet hole was located in the back window overlooking the bed of the Chevy Silverado. The back window and front passenger seat window of the vehicle were broken. A car wash employee located and picked up the casings expended from Deputy Matelli's gun and turned them over to the investigators, so their exact location is unknown.

Deputy Matelli was treated and examined for his injuries. Multiple pellets and fragments were removed from Deputy Matelli's face, abdomen, left forearm and the left thigh. Follow up photographs taken revealed additional impacts to Deputy Matelli, demonstrated by bruising to his left eye, a nick to his right ring finger and non-piercing impacts to his right thigh in addition to the above noted injuries.

D. CRIMINAL COURT CASE SCR 715821-1

Pritel is currently being prosecuted by the Sonoma County District Attorney's Office for the following violations: Penal Code Section 664/187, Attempted Murder; Penal Code Section 245(d)(2) Assault on a Peace Officer with a Semiautomatic Firearm; and Carrying a Loaded, Unregistered Firearm. The Attempted Murder and Assault on a Peace Officer charges also carry additional penalty enhancements for Personal and Intentional Discharge of a Firearm and Use of a Firearm, pursuant to Penal Code Sections 12022.53 and 12022.5. The charges are based on Pritel's carrying a loaded, unregistered firearm while in public and at the workplace, and for intentionally firing that semiautomatic firearm at a person he knew to be a peace officer.

Criminal proceedings are currently suspended after the defendant was deemed incompetent by the court.

V. STATEMENT OF THE LAW

The sole legal issue to be resolved is whether Officer Matelli's shooting of Pritel was lawful under the circumstances. The United States Supreme Court has routinely recognized that a peace officer has the legal authority to detain an individual upon a reasonable suspicion that the person to be detained has engaged in criminal activity. *United States v. Sokolow* (1989) 490 U.S. 1; *Terry v. Ohio* (1968) 392 U.S. 1. California has further authorized a peace officer to detain a person suspected to be in violation of any crime relating to firearms under Penal Code Section 833.5.

A peace officer has the authority to make an arrest of an individual if the facts presented substantiate probable cause to believe that a crime has been committed. An individual has a duty to submit to lawful arrest. This authority for the officer and duty of the arrestee can be found in Penal Code sections 834 and 834a. Penal Code Section 835a provides that a peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested. The officer will not be deemed an aggressor or lose the right to self-defense by the use of reasonable force to effect the arrest, to prevent the escape, or to overcome resistance.

In addition to specific authority provided to law enforcement officers when conducting a detention or an arrest, an officer always has the same protection of the law of self-defense as any other citizen to use reasonable force in self-defense or for the defense-of-others. This defense is available to all people within the United States, including law enforcement officers, regardless of whether they are attempting to make a lawful arrest.

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears necessary to the person claiming the right to self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. Any person, including a peace officer, may use all the force that he reasonably believes to be necessary to prevent imminent injury to himself or others. While review of a person's conduct after the fact is made calmly and deliberately in a process of "careful balancing," the courts have recognized 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." The law simply does not render criminal the conduct of a person who is under assault because he may have chosen "less lethal" means to ensure his own survival. If deadly force is reasonable and justified in response to an imminent threat of harm, all hypothetical questions about alternative courses of action are irrelevant. *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912.

A person acts in lawful self-defense or in the lawful defense-of-others if all the following exist: the person reasonably believed that they, or someone else, was in imminent danger of being killed or suffering great bodily injury; the person reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and the person used no more force than was reasonably necessary to defend against that danger.

When deciding whether Deputy Matelli's own beliefs were reasonable, one must consider all of the circumstances as they were known to and appeared to him at the time, and consider what a reasonable person in a similar situation with similar knowledge would have believed at the time, not with the benefit of 20/20 hindsight. *Terry v Ohio* (1968) 392 U.S. 1, 20-22. If Deputy Matelli's beliefs were reasonable, the danger does not need to have actually existed.

Likewise, when deciding whether Deputy Matelli's conduct (as opposed to his belief) was reasonable it is important to note that a person threatened with an attack that justifies the exercise of the right of self-defense need not retreat. "A person threatened with an attack that justifies the exercise of the right of self-defense need not retreat. In the exercise of his right of self-defense, a person may stand his ground and defend himself by the use of all force and means which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge. This law applies even though the assailed person might more easily have gained safety by flight or by withdrawing from the scene." *People v Hughes* (1951) 107 Cal. App. 2d 487, 494.

In the leading case of *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082-83, the California Supreme Court succinctly and definitively articulated the law of self-defense:

"For a killing to be in self-defense, the defendant must actually and reasonably believe in the need to defend. (Citations omitted.) If the belief subjectively exists but is objectively unreasonable there is "imperfect self-defense," i.e., "the defendant is deemed to have acted without malice and cannot be convicted of murder, but can be convicted of manslaughter. (Citations omitted.) To constitute "perfect self-defense", i.e., to exonerate the person completely, the belief must also be objectively reasonable. (Citations omitted.) As the legislature has stated, '[T]he circumstances must be sufficient to excite the fears of a reasonable person . . .' (Citations omitted.) Moreover, for either perfect or imperfect self-defense, the fear must be of imminent harm. 'Fear of future harm—no matter how great the fear and no matter how great the likelihood of the harm—will not suffice. The defendant's fear must be of imminent danger to life or great bodily injury.' (Citations omitted.)

Although the belief in the need to defend must be objectively reasonable, a jury must consider what "would appear necessary to a reasonable person in a similar situation and with similar knowledge . . ." (Citations omitted.) It judges reasonableness "from the point of view of a reasonable person in the position of defendant . . ." (Citations omitted.) To do this, it must consider all the "facts and circumstances . . . in determining whether the defendant acted in a manner in which a reasonable man would act in protecting his own life or bodily safety. (Citations omitted.) As we stated long ago, ' . . . a defendant is entitled to have a jury take into consideration all the elements in the case which might be expected to operate on his mind . . . ' (Citations omitted.)"

VI. DISCUSSION


Deputy Matelli had reasonable suspicion to detain Pritel when he encountered him at the Jolly Washer in the city of Sonoma. Deputy Matelli had been informed by employees of the business that Pritel had a gun in his waistband. While the employees were unclear if the gun was real or a BB gun, there was sufficient concern that the manager of the business requested that Pritel either get rid of the gun or leave the premises. Pritel refused to leave and instead threatened the manager, stating, "You wanna get shot?" Deputy Matelli had sufficient cause to detain Pritel for purposes of determining if he was carrying a loaded firearm in public, a violation of 25850(a) of the Penal Code, as well as to determine if he was a threat to himself or to public safety based on the totality of the circumstances.

The evidence is clear that Deputy Matelli believed his life was in danger at the time he fired his weapon at Pritel. The incident unfolded very quickly once the deputies left the convenience store to contact Pritel. Deputy Matelli attempted friendly contact, using Pritel's first name, and requesting that Pritel come and speak to him. Almost immediately Pritel reaches into his waistband and pulls out a gun. Deputy Matelli is simultaneously reaching for his sidearm and telling Pritel to drop the weapon. Pritel then fires at Deputy Matelli, and only then does the Deputy return fire in rapid succession.

The body worn camera evidence, statements of the witness officers, and surveillance video all corroborate the facts in this case. Physical evidence collected corroborates Deputy Matelli's belief that the gun he saw Pritel reaching for was a firearm. The 9mm handgun recovered by Deputy Hals was loaded with precisely the type of scatter ammunition that struck Deputy Matelli. Upon further inspection, it was determined that the weapon was also loaded with live 9mm full copper jacket rounds. When Pritel was interviewed, he admitted to shooting Deputy Matelli, and believed that he had shot the Deputy with a live 9mm Luger round.

VII. CONCLUSION

Based on the legal principles and facts discussed above, Sonoma County Sheriff's Deputy Michael Matelli was legally justified in using force in this instance. He acted lawfully and the force used was reasonable under the totality of the circumstances. He reasonably believed that Pritel was prepared to, and in fact did use lethal force against him, and Deputy Matelli lawfully acted in self-defense when he used his firearm. Accordingly, this office finds that criminal charges are neither warranted nor supported by the evidence.

 Signature redacted for Security reasons.

 Jill R. Ravitch, District Attorney