

# LAW ENFORCEMENT EMPLOYEE-INVOLVED FATAL INCIDENT REPORT



Employer Agency: Sonoma County Sheriff's Office

Lead Agency: Santa Rosa Police Department

Involved Party: Betai Michel Koffi

Date of Incident: July 4, 2019

Report Prepared by:

SONOMA COUNTY DISTRICT ATTORNEY

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## I. INTRODUCTION

On July 4, 2019, Betai Michel Koffi (hereafter Koffi) was seriously injured as a result of gunshot wounds sustained during an encounter with Sonoma County Sheriff's Deputy Jason Pasero. The encounter occurred when Deputy Pasero tried to contact Koffi shortly after Koffi assaulted a person and stole his vehicle; Koffi then used the stolen vehicle to crash into four pedestrians. During the encounter Koffi intentionally drove the vehicle directly at Deputy Pasero who was standing in the roadway outside his patrol vehicle. Deputy Pasero responded by discharging his service weapon multiple times at Koffi. Koffi sustained several nonlethal, albeit serious, gunshot wounds.

Sonoma County Sheriff's Office invoked the Sonoma County Law Enforcement Employee-Involved Fatal Incident Protocol. 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 the protocol, in order to eliminate the risk or appearance of conflicts of interest, an outside law enforcement agency is to investigate law enforcement employee-involved fatalities. Accordingly, officers with the Santa Rosa Police Department assumed responsibility for the investigation of this shooting incident.

**Under the protocol, *Fatal Injury* includes not only death, but injury which is so severe that death is a likely result.**

The role of the Sonoma County District Attorney's Office in a law enforcement employee-involved fatal incident is to review the investigation to determine if there exists any criminal liability on the part of the law enforcement employee; 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 to complete a thorough review of the investigation and if no criminal liability is found, prepare a report summarizing the investigation and documenting her conclusions. A copy of this report is submitted to the Foreperson of the Sonoma County Grand Jury.

The following report has been prepared by the Sonoma County District Attorney's Office. It includes a summary of facts, statement of law, legal analysis and conclusion. A copy of the report will be made available to the public.

## 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 the involved law enforcement employee(s).

The report does not offer opinions on 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, as the chief law enforcement official of Sonoma County, and as the person responsible for deciding what cases to prosecute within this jurisdiction, has the responsibility to review and approve the filing of all criminal cases. The discretion to exercise this function and to charge a person with a crime is not without limit.

The standard to be applied by the District Attorney in filing criminal charges is accurately expressed in a publication of the California District Attorneys Association entitled, *Uniform Crime Charging Standards*.<sup>1</sup> It provides:

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.

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<sup>1</sup> California District Attorneys Association, *Uniform Crime Charging Standards* (1996) p. 12.

Additional restraint on the charging authority is found in *The California Rules of Professional Conduct, Rule 5-110*, which provides that an attorney in government service (this definition includes prosecutors) shall not institute or cause to be instituted criminal charges when the member knows or should know that the charges are not supported by probable cause.

The standard for charging a crime is high because the burden of proof required at trial is quite high, i.e. proof beyond a reasonable doubt. Proof beyond a reasonable doubt is the highest burden of proof under the law.

#### IV. SUMMARY OF FACTS

The following is a summary of facts intended to assist the reader in understanding this report and its conclusion. It is not a substitute for the reports, witness interviews (including interviews with Deputy Pasero, Officer Laurie and Officer Salaun), body-worn camera video footage, home security video footage, 911 calls, law enforcement dispatch records, and other evidence from which it is derived. It is, however, an accurate composite of what the District Attorney believes the material facts in this case to be.

##### **Events Leading Up to the Shooting Incident**

Bodega Harbour is a residential neighborhood near the town of Bodega Bay, adjacent to the Sonoma Coast, and adjoining Highway One. It is an upscale coastal community which includes an 18-hole golf course and a number of homes which are owned and operated as vacation rentals. Given the relative remoteness of this community, there is only a limited law enforcement presence at any given time. It is within the jurisdiction of the Sonoma County Sheriff's Office (SCSO) and the California Highway Patrol (CHP).

Deputy Jason Pasero was a resident deputy housed at the Sonoma Coast by the SCSO. Among the reasons for such a posting is to decrease response times for calls for service which may occur in this remote location of Sonoma County. Deputy Jason Pasero is an experienced peace officer with almost 19 years of service. Deputy Pasero has been employed by the SCSO for the past five years; prior to that he was employed as a police officer with the City of San Bruno. During his career, Deputy

Pasero has held a variety of assignments that require specialized training; including, but not limited to, detective, SWAT team member, canine handler, firearms instructor, and field training officer.

Officer Sean Laurie and Officer Justin Salaun are also assigned as resident officers at the Sonoma Coast by the CHP. Given the limited law enforcement resources available at the coast, it is common for CHP and SCSO to work collaboratively.

On or about July 3, 2019, Betai Michel Koffi (age 32) and six of his friends rented a house in the Bodega Harbour neighborhood in order to enjoy the long 4<sup>th</sup> of July weekend. Koffi and his friends resided in the San Francisco Bay Area, roughly two hours south of Bodega Harbour. The group arrived at the house on the evening of July 3rd. That evening the group stayed at the house, drank wine, played cards and put a puzzle together.

On July 4, 2019, around 1:00 p.m., Koffi and his friends took a quantity of LSD (lysergic acid diethylamide). LSD is a controlled substance and a hallucinogenic drug. Effects typically include altered thoughts, feelings, and awareness of one's surroundings. Many users see or hear things that do not exist. Koffi brought the LSD, which he kept in an Altoids container. Everyone consumed a quantity of LSD, perhaps half to two thirds of a tab, but Koffi consumed two tabs. According to his friends, Koffi had used LSD before. One friend estimated seeing Koffi ingest LSD perhaps a dozen times before without incident. In addition to the LSD, Koffi reportedly had a quantity of alcohol along with a small quantity of Xanax earlier in the day as well.

Around 5:00 p.m., according to friends, Koffi began "acting weird," running laps around the house, falling down randomly, and speaking nonsensically. As a result of these behaviors, Koffi's friends began to watch him in shifts. However, despite being watched by his friends, Koffi managed to take an additional quantity of LSD - reportedly two more tabs. At this point, Koffi began "going sideways," as one friend described it. Koffi became aggressive and began punching his housemates, ultimately assaulting most of them. Koffi also punched and then stabbed one friend in the collarbone with a pencil, resulting in a minor injury.

Around 8:00 p.m., Koffi ran to the front yard and got into his rental car - a Hyundai Elantra sedan. The friends ran outside to stop Koffi believing he was not safe to drive. At one point, Koffi drove backwards into a bush and then drove forward

almost striking one of his friends with the car. The friend had to jump out of the way in order to avoid being struck with the car. It was reported that Koffi purposefully crashed the car into the garage of the residence causing damage to the residence. At this point, two of Koffi's friends jumped into the car in order to stop him from driving. Koffi put a "chokehold" on one of them and strangled him for several seconds and almost caused him to pass out. Koffi then got out of the car and ran away from the house and out of their view.

The general concern of the group was that Koffi was acting so strangely and violently that he may hurt himself or someone else. One of the friends called 911 to report what had happened.

California Highway Patrol dispatch received the emergency 911 call at approximately 8:07 p.m. During the 911 call, it was reported, among other things, that Koffi was on LSD, had "purposefully crashed a car" into the front of the rental house, and he was described as not being in a "well-state." He was further described as being in a "manic-state" and "really freaking out."

CHP Officer Sean Laurie and CHP Officer Justin Salaun were dispatched to the event and began responding to the reported location in the Bodega Harbour neighborhood. SCSO Deputy Jason Pasero was also dispatched to assist with the call and began responding to the reported location as well.

### **Koffi Steals a Truck**

While Deputy Pasero and Officers Laurie and Salaun were responding, Koffi became involved in a second violent incident. After crashing his car into the garage of the vacation house on Swan Drive, Koffi walked for several minutes until he came upon a residence located on Pelican Loop.

John Doe A (Doe A) was a security guard employed by Allied Security. Doe A's duties included providing security services for the Bodega Harbour neighborhood. He had a distinctively marked security uniform and a distinctively marked security pickup truck which he used for patrolling the neighborhood. During the course of his shift, at around 8:00 p.m. Doe A estimated, he received a call of a "video intruder alert" (Koffi) at the residence located in the Bodega Harbour neighborhood. Doe A drove to the residence to investigate. Notably, several of the homes in the neighborhood are equipped with video security recording systems. Several videos

were obtained in this case that depict important aspects of this event, including much of the encounter described below.

Upon his arrival, Doe A parked his Allied Security truck in the driveway of the residence. Doe A got out of the truck and left the truck idling with the keys in the ignition. Moments later, Doe A was confronted by Koffi on the grounds of the residence. Doe A indicated that Koffi appeared “angry at the world” and had a cut over his right eye (which reportedly occurred when Koffi crashed his rental car into the garage of the rental house). Koffi said, “Fuck you.” Koffi approached Doe A and pushed him.

Koffi then pulled a landscape light fixture out of the ground and while so armed walked towards Doe A’s still idling truck. Doe A followed after Koffi and warned him to leave his truck alone. Doe A found himself standing about five feet from Koffi, in the area of his truck. Koffi then approached him once more and assaulted him with the landscape light fixture by plunging it at the upper left portion of his chest. This caused Doe A to fall backward to the ground. Doe A sustained a minor injury to the upper chest. Koffi then climbed into the driver seat of the truck and drove away. Koffi drove north on Pelican Loop.

At approximately 8:19 p.m., Doe A, and another witness to the incident, called 911 to report what had just occurred. Deputy Pasero, Officer Laurie and Officer Salaun were provided the updated information by dispatch.

### **Koffi Runs Over Pedestrians**

Immediately after Koffi stole the truck and drove away from the scene on Pelican Loop, he was involved in a third violent incident.

Jane Doe A and her boyfriend John Doe B were staying out at the Sonoma Coast with family for John Doe B’s sister’s wedding. John Doe C and his girlfriend Jane Doe B were also staying at the coast for the same wedding. John Doe B and John Doe C are cousins. The group had been staying in the area and prior to the incident had been at a rental house on Pelican Loop.

Around 8:00 p.m., John Doe B and Jane Doe A decided to go for a walk and watch the sunset. John Doe C and Jane Doe B had left to go for a walk about a half hour prior. John Doe B and Jane Doe A were walking northbound on Pelican Loop

roadway which overlooks the coast. They were walking adjacent to the left hand side of the roadway and against the direction of traffic. John Doe B and Jane Doe A were walking side by side. John Doe B was on the left and Jane Doe A on the right. The roadway was a well maintained two-lane road without sidewalks or much shoulder. Given the time of year, it was still daylight.

Unbeknownst to John Doe B and Jane Doe A, Koffi had just stolen a truck and was speeding away from the scene northbound on Pelican Loop toward their location.

Koffi drove around a slight curve in the roadway, entered the opposite lane, and intentionally turned directly at John Doe B and Jane Doe A, whose backs were to the speeding truck. The front of the truck collided with Jane Doe A and knocked her many feet off the roadway and into the adjoining field where she landed in a heap. The front of the truck struck a glancing blow to John Doe B who managed to stay on his feet. John Doe B reported hearing the vehicle approaching from behind and accelerating prior to their being struck.

Koffi continued northbound on Pelican Loop toward John Doe C and Jane Doe B, who were coming back from their walk. They were walking southbound on Pelican Loop toward John Doe B and Jane Doe A. John Doe C and Jane Doe B were side by side. John Doe C was on the left and Jane Doe B was on the right. John Doe C and Jane Doe B could see Koffi crash into John Doe B and Jane Doe A. Koffi continued speeding toward John Doe C and Jane Doe B and turned directly into them. John Doe C and Jane Doe B tried to avoid being hit by jumping out of the way and into the adjacent field. John Doe C avoided being struck, but Jane Doe B sustained a serious impact to her right leg. Koffi literally drove off the roadway and into the field in an effort to hit the two.

Remarkably, this event was captured on a home video security system and was collected by law enforcement.

Jane Doe A suffered a severe concussion, whiplash, internal bruising, contusions, and abrasions. Jane Doe B suffered significant injury to her right leg. John Doe B suffered injury to his right arm. John Doe C did not have any physical injuries.

At approximately 8:21 p.m., a resident in the area who had witnessed the event called 911 to report what had just transpired.

Koffi continued driving northbound on Pelican Loop and stopped in the vicinity of 21012 Pelican Loop and 20997 Pelican Loop. Koffi stopped the truck diagonally in the roadway with the front of the truck angled slightly downhill. Koffi got out of the truck and remained in the area.

### **Shots Fired**

Deputy Pasero was in a distinctively marked SCSO patrol truck. He was wearing a distinctively marked SCSO jumpsuit uniform. He wore a duty belt that contained Glock 17 semiautomatic firearm (18 rounds fully loaded, 17 rounds in the magazine and 1 round in the chamber), two additional magazines, Taser, radio, and handcuffs. Deputy Pasero was working with his canine partner, Titan. Titan was located in the extended cab portion of the patrol truck. Deputy Pasero was also wearing his department issued body worn camera (BWC). The BWC was activated during this incident.<sup>2</sup>

Deputy Pasero responded to Bodega Harbour in response to the initial call and was looking for the reported vehicle crash. While looking for evidence of a vehicle crash related to the initial call, he received a new information through dispatch of an assault and stolen vehicle incident that had just occurred. Deputy Pasero had talked with Doe A two hours before and knew exactly what the stolen truck looked like. Deputy Pasero responded to the location of the Doe A assault and saw Doe A on the ground. It appeared that Officer Laurie and Officer Salaun were already on scene assisting. Officer Salaun approached Deputy Pasero and pointed down the roadway in the direction Koffi had fled and indicated for him to continue after the stolen truck.

Believing the situation to be “still on-going,” Deputy Pasero continued on Pelican Loop and soon passed three or four additional people waiving their hands and screaming at him (John Doe B, John Doe C and Jane Doe B) . One woman appeared to be face down in the grass and not moving (Jane Doe A). Deputy Pasero had his window down and one of the people communicated the direction of travel of the stolen truck. Deputy Pasero continued driving on Pelican Loop in the hopes of making contact with Koffi and the stolen truck.

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<sup>2</sup> It merits mentioning, that while BWC is an invaluable law enforcement tool, it does have limitations. BWC is an aid in understanding the facts and circumstances of an event, it is not a substitute for what an officer is able to directly observe and experience during an encounter.

Moments later Deputy Pasero came upon the truck parked in the roadway on Pelican Loop. The stolen truck was oriented diagonally across the opposite lane and slightly toward the downhill direction, which is to say in the direction of Deputy Pasero's vehicle.

Deputy Pasero observed Koffi standing in the roadway a number of yards away from the driver's door of the stolen truck. Deputy Pasero stopped his patrol truck in the roadway, within his lane, and got out. Deputy Pasero stopped 10 to 20 yards away, roughly estimated, from where Koffi's truck was stopped.

Deputy Pasero started yelling at Koffi, in an effort to communicate with him; although during his interview, Deputy Pasero was not able to recall precisely what he had said. Deputy Pasero described Koffi as having a "blank stare" and he appeared "robotic" and was clenching his fists. Deputy Pasero was aware, based on his training and experience, that if Koffi had ingested LSD he could be in an altered state.

Deputy Pasero began a mental checklist of how he might respond to the situation. Deputy Pasero didn't want Koffi getting back in the stolen truck, and yet Koffi was too far for him for him to be able to safely close the distance on foot. Deputy Pasero was considering using his canine, Titan, to help resolve the situation. However, Koffi escalated the situation so quickly, Deputy Pasero was not able to utilize that option.

Koffi stared blankly at Deputy Pasero as he walked toward the truck and got back into it. Koffi made eye contact with Deputy Pasero, revved the engine, and then drove the truck directly at him. Deputy Pasero was standing outside of his vehicle at this point, on the roadway, on the driver's side of his patrol truck. To the left of Deputy Pasero, Officer Laurie had pulled up and positioned his patrol utility vehicle to the left of Deputy Pasero. The gap between Deputy Pasero's truck and Officer Laurie's utility vehicle was slightly less than a vehicle width. Deputy Pasero's BWC depicts Officer Laurie's vehicle placement. However, during Deputy Pasero's interview he indicated he was not aware that Officer Laurie had pulled up alongside him - believing he had not yet arrived on scene. Notably, these sorts of gaps in peripheral awareness are not uncommon in very high stress events in which a participant's attention is very tightly focused on the perceived threat.

As Koffi accelerated toward Deputy Pasero, Deputy Pasero believed he was about to be run over and killed. Deputy Pasero un-holstered his sidearm and discharged

his firearm multiple times in the direction of Koffi in order to stop the perceived threat. Koffi was struck in the head and torso area.

Koffi's truck collided with Officer Laurie's vehicle and came to a stop - the truck's front passenger side impacted the front passenger side of utility vehicle. The location of the impact supports a conclusion that Koffi was seeking to drive his truck between the gap where Deputy Pasero was standing. The gap between Deputy Pasero's truck and Officer Laurie's vehicle was a bit too narrow to actually allow Koffi's truck to fit through - but it was close. After the truck crashed into Officer Laurie's vehicle and came to a stop, the truck's engine continued to rev and the wheels were spinning on the pavement. Deputy Pasero approached Koffi, removed him from the truck, placed him on the ground where he was handcuffed. Koffi was seriously injured and provided medical attention at the scene. Koffi was then transported by CHP helicopter to Santa Rosa Memorial Hospital.

At 8:22 p.m., immediately after engaging Koffi with gunfire, Deputy Pasero reported over the radio "shots fired," followed shortly thereafter for a request for medical response. Based on dispatch records, we know that approximately 15 minutes elapsed between the initial 911 call (from Koffi's friend) until "shots fired" was reported.

During the investigation of the case, an expert analysis of the Allied Security truck's on-board computer system was performed. Experts with the CHP MAIT Unit (Multi-disciplinary Accident Investigation Team) determined that the data recovered showed a "sudden acceleration, as the wheel straightened from a right turn, with 100 percent accelerator application." Which is precisely what was described by Deputy Pasero in his interview.

Deputy Pasero fired 11 shots. This was confirmed from the 11 casings recovered at the scene and the round count that was performed on his weapon and magazine.

### **Post Incident Conduct of Deputy Jason Pasero**

After the shooting Deputy Pasero's demeanor was controlled and professional. He removed Koffi from the vehicle and seeing that he was still alive placed him in handcuffs - which is standard procedure in felony arrest situations. Once Koffi was secured in handcuffs, Deputy Pasero, aided by Officer Laurie and Officer Salaun, began emergency life saving measures on Koffi. Deputy Pasero also called for

medical units to respond. Koffi was transported to the Santa Rosa Memorial Hospital by way of a CHP helicopter.

When back up deputies arrived on scene, Deputy Pasero shared a concern for any potential victims down range from the direction he fired. In fact, there was one unoccupied house down range that received a single bullet strike. Deputy Pasero kept his BWC activated until a supervisor arrived on scene and he was given permission to turn it off as the event was concluded.

### **Koffi Survived His Injuries**

Koffi sustained serious injuries including a gunshot wound to his head and required a lengthy hospitalization at Santa Rosa Memorial Hospital.

### **Blood Draw and Toxicology**

A blood draw was conducted on Koffi at Santa Rosa Memorial Hospital. The sample was sent to Redwood Toxicology Laboratory for analysis. The completed analysis determined that Koffi had lysergic acid diethylamide (LSD) in his blood. It is not known precisely to what degree the LSD was effecting Koffi's mental status and behaviors during this event.

As part of the investigation, the remaining unused LSD was collected and submitted to the Department of Justice crime lab for testing. The substance tested positive for LSD, as well as ketamine and cocaine. Ketamine is mainly used for starting and maintaining anesthesia. Mental effects include pain relief, sedation and memory loss. Cocaine is a central nervous system stimulant, mental effects include loss of contact with reality and intense feelings on euphoria or agitation. However, interestingly, ketamine and cocaine were not detected in Koffi's blood.

## **V. STATEMENT OF THE LAW**

The principle issue to be resolved in this case is whether the shooting of Koffi was unlawful because the force used by Deputy Pasero *was not* reasonably necessary under the circumstances to accomplish a lawful law enforcement purpose; or, stated another way, whether the shooting *was* lawful because the force used by Deputy Pasero was reasonably necessary under the circumstances to accomplish a lawful law enforcement purpose.

When a peace officer uses deadly force by means of a firearm, not resulting in death, potential criminal liability to be considered could encompass: excessive force by a peace officer under color of authority in violation of Penal Code section 149; assault with a firearm in violation of Penal Code section 245(a)(2); and attempted murder in violation of Penal Code sections 664(a)/187(a).

Deciding the issue of excessive force, and resultant criminal liability, revolves around several key principles of law. A brief legal summary is included to assist the reader in understanding this report and its conclusions. While it is by no means an exhaustive discussion of the controlling principles of law to be applied to this case, it is a correct statement of the law that applies in this case.

The legal principles to be considered include: 1) a peace officer's authority to effect an arrest, 2) a peace officer's authority to use only reasonable force to effectuate an arrest, 3) a peace officer's authority to use force in apprehending a fleeing felon, 4) a peace officer's right of self-defense, and 5) defense-of-others.

A peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use reasonable force to effectuate the arrest, to prevent escape, or to overcome resistance. 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; nor shall such officer be deemed an aggressor or lose the right to self-defense by the use of reasonable force to effect the arrest, to prevent escape, or to overcome resistance.<sup>3</sup>

Any person, including a peace officer, has a right to use reasonable force in self-defense or for the defense-of-others.<sup>4</sup> A person can be said to have acted in lawful self-defense or for the defense of others if all of the following exist: the person reasonably believed that the immediate use of deadly force was necessary to defend against that danger; the person used no more force than was reasonably necessary to defend against that danger.<sup>5</sup>

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<sup>3</sup> See Penal Code Section 835a; CALCRIM 2670. Penal Code 835a was amended January 1, 2020. This case was considered in light of the law as it existed at the time of the incident, as well as under the post-incident amendment to the law. The amendment to the statute does not materially change the analysis in this case.

<sup>4</sup> See Penal Code Sections 692-694.

<sup>5</sup> See CALCRIM 505.

When deciding whether the person's beliefs were reasonable, one must consider all of the circumstances as they were known and appeared to the person at the time, as well as what a reasonable person in a similar situation with similar knowledge would have believed. If the person's beliefs were reasonable, the danger does not need to have actually existed.<sup>6</sup>

Both self-defense and defense-of-others are complete defenses to a homicide, attempted homicide, and assault with a firearm; and a valid claim of self-defense and defense-of-others make the homicide, attempted homicide, and assault with a firearm justifiable.<sup>7</sup>

There are also some special rules that apply to the use of deadly force by peace officers who are in the lawful performance of their duties. Use of deadly force while in the line of duty is justified, and therefore not unlawful, provided all of the following exist: the person is a peace officer; the killing was committed while performing a legal duty; the killing was necessary to accomplish that lawful purpose; and the peace officer had probable cause to believe that the person killed posed a threat of serious physical harm, either to the peace officer, or to others.<sup>8</sup> In such situations, there is a presumption that the killing was justified. The burden falls to the prosecution to prove beyond a reasonable doubt the killing was *not* justified.<sup>9</sup>

Additionally, while not the focus of this inquiry, it is noted that the Sonoma County Sheriff's Office does have a Use of Force Policy which considers deadly force applications in appropriate situations. The use of a firearm is expressly considered, within the policy, to be deadly force.

## VI. LEGAL ANALYSIS

Koffi committed a number of criminal offenses for which law enforcement

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<sup>6</sup> See CALCRIM 505.

<sup>7</sup> See CALCRIM 505; Penal Code Section 199.

<sup>8</sup> See CALCRIM 507; Penal Code Sections 196, 199.

<sup>9</sup> See CALCRIM 507; Penal Code Sections 189.5, 199.

intervention - in the form of investigation, detention, and arrest - would be legally justified; including, but not limited to, assaulting several of his friends, purposefully crashing a car into the rental house, assaulting a security guard, stealing a truck, driving under the influence of a controlled substance, and assaulting pedestrians with a motor vehicle.<sup>10</sup>

Deputy Pasero was dispatched to a rapidly evolving series of dangerous events. Deputy Pasero was summoned initially to a relatively straightforward call for service from a concerned friend about Koffi being under the influence of LSD, purposefully crashing a car into a house and wandering off; but within minutes, the call ripened into a carjacking investigation, and then into what was, in essence, an attempted mass murder. Attempting to locate, contact, and arrest Koffi was certainly within the lawful scope of Deputy Pasero's duties given the facts and circumstances known to him.

After locating Koffi and the recently stolen truck, Deputy Pasero stopped his vehicle, got out and attempted to verbally engage Koffi. These were all reasonable things to do. During the initial encounter, albeit a brief encounter, Deputy Pasero was approaching the situation in a reasonable manner and without employing any lethal force options. In fact, Deputy Pasero was considering using his canine - a non-lethal force option - to resolve the situation. Unfortunately, Koffi made the employment of such a tactic impossible.

Koffi made a serious and unlawful miscalculation when he decided to reenter the stolen truck. Koffi compounded this mistake with near deadly consequence when he chose to intentionally accelerate the truck straight towards Deputy Pasero who was standing on the roadway next to his vehicle. Deputy Pasero's belief that he was in imminent danger of being run over and killed certainly seems reasonable under the circumstances. Deputy Pasero's position did not lend itself to easy retreat, nor was retreat legally required. Deputy Pasero's decision to discharge his firearm at Koffi, in order to stop the threat, was a reasonable response given the perilous assault being directed at him. Other force tools available to Deputy Pasero (for example, baton, Taser, and canine) would have been wholly inappropriate for dealing with an exigency of this magnitude. Additionally, the swiftness with which Koffi turned the

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<sup>10</sup> Koffi is currently being prosecuted in the Sonoma County Superior Court, Case No. SCR-729195-1, based on his actions in this case, including seven counts of assault with a deadly weapon in violation of Penal Code § 245(a)(1)(c), one count of carjacking in violation of Penal Code § 215, and two counts of attempted murder in violation of Penal Code §§ 664(a)/187(a)

situation into a deadly encounter, made any employment of de-escalation techniques moot.

As is frequently the case, when law enforcement is dispatched to an on-going emergency they will necessarily be placed into harm's way. In fact, there is a common community expectation that law enforcement, when summoned, will run toward danger in fulfillment of their public safety functions. This is precisely what Deputy Pasero did and there can be no fault found in such a response.

In those brief moments, Deputy Pasero's concern was not only for his personal safety, but also for the safety of Officer Laurie and Officer Salaun, who he believed were out of their vehicles responding to the earlier crime scenes, and therefore vulnerable to additional attack. These concerns were entirely legitimate and were reasonable given the facts as known to Deputy Pasero at the time.

Finally, Deputy Pasero was concerned for the safety of members of the public if Koffi were to escape in the stolen truck. These concerns were reasonable given Koffi had already demonstrated a readiness to kill members of the public by using the stolen truck as a deadly weapon. Deputy Pasero was aware that there were victims still in relatively unprotected positions and vulnerable to additional attack. Had Koffi successfully avoided apprehension at that time, and been permitted to drive away, it was a reasonable evidence-based belief that mayhem would follow in his wake.

None of the tragic consequences that befell Koffi can reasonably be said to be have been initiated by Deputy Pasero. Rather, Deputy Pasero found himself in close proximity to Koffi and needing to respond to a chain of events set in motion by Koffi - who was behaving erratically and completely out of control. As Koffi drove the stolen truck directly at Deputy Pasero, it was an objectively reasonable response for Deputy Pasero to employ lethal force. The law does not require that it be the only possible response - rather that it be a reasonable course of action under the totality of the circumstances, which it was.

## VII. CONCLUSION

Having been dispatched to an emergency situation not of his creation, Sonoma County Sheriff's Deputy Jason Pasero was professionally obligated - as well as

legally authorized - to pursue Koffi and try and apprehend him. Koffi had committed numerous dangerous and violent crimes and had proved himself to be a serious, immediate, and ongoing threat to public safety.

The actions of Deputy Pasero were undertaken in fulfillment of legitimate law enforcement purposes. His actions were understandable and reasonable given the totality of the circumstances. Deputy Pasero was acting within the bounds of the law and fulfilling common community expectations in attempting to contact and arrest Koffi. Deputy Pasero was in a position to observe this situation unfold and to appreciate the dangers that Koffi posed. Deputy Pasero's decision to fire his weapon was done in response to Koffi's attempt to evade lawful arrest and run him over with a truck. Koffi's actions clearly created an imminent threat of death or great bodily injury to Deputy Pasero. Deputy Pasero's belief that the lives of Officer Laurie, Officer Salaun, as well as members of the public, could be in peril if Koffi were allowed to escape, was also reasonable under the totality of the circumstances.

Based on all of the facts and circumstances, as explained above, the actions of Deputy Jason Pasero were reasonable, legally justified, and therefore no criminal charges are warranted.

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JILL R. RAVITCH  
District Attorney, County of Sonoma