

LAW ENFORCEMENT EMPLOYEE-INVOLVED
CRITICAL INCIDENT REPORT



Employer Agency: Santa Rosa Police Department

Investigating Agency: California Highway Patrol

Decedent: Sean Patrick Bell

Date of Incident: 8/4/2020

Report Prepared by:
SONOMA COUNTY DISTRICT ATTORNEY
Public Version

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I. INTRODUCTION

On August 4, 2020, Sean Patrick Bell died as a result of a traffic collision at the intersection of Santa Rosa Avenue and the entrance to the Santa Rosa Market Place. That day he ran the red light at a high rate of speed, struck a pickup that was making a left turn in the intersection, lost control of his vehicle, and smashed into a pole. Bell was ejected out of his vehicle onto the street; he later died from his injuries. Shortly before the crash, a Santa Rosa Police Department officer was pursuing him to investigate a domestic violence incident that occurred in the Santa Rosa Market Place parking lot. Given the circumstances, California Highway Patrol was called in to conduct the investigation regarding the collision according to the established Critical 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 this 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, members of the California Highway Patrol (CHP) assumed responsibility for the investigation of the solo vehicle collision.

The role of the Sonoma County District Attorney's Office in a law enforcement employee-involved critical incident is to review the investigation to determine if there exists any criminal liability on the part of the law enforcement employee. Further, the District Attorney's Office may provide assistance to the investigating agency regarding legal issues, 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 prepare a report summarizing the investigation and documenting her conclusions. The following report includes a summary of facts surrounding the death of Sean Patrick Bell also includes a review of the relevant law, an analysis of the facts and law, and the district attorney's conclusion. The district attorney will provide a copy of this report to the foreperson of the Sonoma County Grand Jury.

II. SCOPE OF REVIEW

The sole purpose of this criminal investigation and review is to establish the presence or absence of any criminal liability on the part of the involved law enforcement employee(s).

III. STANDARD OF REVIEW

As the chief law enforcement official of Sonoma County and as the person responsible for deciding which cases to prosecute within this jurisdiction, the district attorney has the responsibility to review and approve the filing of all criminal cases. The discretion to charge a person with a crime is limited by law and ethical guidelines.

The standard to be applied in filing criminal charges is accurately expressed in the 1996 publication of the California District Attorneys Association entitled, *Uniform Crime Charging Standards*. At page 12, 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.

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. Simply put, the standard for charging a crime is high because the burden of proof required at trial is proof beyond a reasonable doubt, 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 conclusions. It is not a substitute for the reports, interviews, and other evidence produced during the investigation. It is an accurate composite of the material facts.

The Pursuit

On August 4, 2020, Santa Rosa Police Officer Dan Jones was on duty in a marked patrol car and wearing his police uniform. Just before 2:00 p.m., Officer Jones responded to a dispatch of a physical fight between a man and a woman behind Costco in the Santa Rosa Market Place. Officer Jones drove into the Costco parking lot to the back of the store with his overhead emergency lights on. As Officer Jones pulled around the building, he saw a Subaru with a male driver, later identified as Sean Patrick Bell, slowly moving towards him. Officer Jones saw Bell making striking motions with his arm in the passenger compartment. Officer Jones pulled in front of the Subaru and briefly activated his siren to let Bell know he was there. As Officer Jones alighted from his patrol car he saw a woman, Jane Doe, exit the Subaru passenger door. She was crying and yelling, "Just leave me alone!" Officer Jones was concerned that Bell was going to accelerate towards him. He made eye contact with Bell, drew his firearm, and ordered Bell to turn off his car engine. Bell put his car in reverse and quickly backed away from him. Officer Jones got back into his patrol car and followed Bell with his emergency lights still on and notified dispatch that Bell was fleeing from him in a car.

Officer Jones saw Bell flee through the parking lot at a high rate of speed. Officer Jones activated his siren to alert people in the parking lot to possible danger and continued his pursuit at a speed of about 25-30 miles per hour. Bell exited the parking lot on Kawana Springs Road and turned right towards Santa Rosa Avenue. Officer Jones turned onto Kawana Springs Road as Bell entered the intersection of Santa Rosa Avenue. Officer Jones continued to follow him at a slow pace. Officer

Jones saw Bell collide with a pickup truck in the intersection of Santa Rosa Avenue and the Santa Rosa Market Place. The truck was already in the intersection. Bell tried to negotiate around it, but struck it. Upon impact, Bell's car spun sideways and then struck a pole. Officer Jones saw a cloud of dust or smoke. When Officer Jones reached the intersection, he saw the Subaru stopped and Bell lying in the street.

Jane Doe #2 was the driver of the pickup truck that Bell struck. That day she was the third car in line stopped for a red light in order to make a left turn from Santa Rosa Avenue into the Santa Rosa Market Place. When the light turned green all of the cars proceeded into the intersection. When Jane Doe #2 started her left turn, she did not see lights, hear a siren, or see the Subaru. As she was half-way through her turn, Jane Doe #2 saw the Subaru enter the intersection at a high rate of speed, which she described as faster than freeway speed. The Subaru struck the front of her truck and slid sideways into a pole. The Subaru then spun around the pole before coming to a stop.

John Doe and his wife were loading their Costco purchases into their car when they saw a patrol car with its emergency lights on and heard its siren as it proceeded through the parking lot to Kawana Springs Road. John Doe was waiting at a red light to exit the parking lot onto Santa Rosa Avenue when he heard a high-pitched roar coming from the Subaru. The engine sound was so loud John Doe concluded the accelerator was pressed all the way down. John Doe saw the Subaru strike the pickup truck, nearly shearing off its front end. The Subaru did not slow down before the collision. John Doe did not see the patrol car again until after the crash. He watched as Officer Jones got out of his patrol car, put rubber gloves on, and went to check on Bell, who was lying in the street.

Soon after the crash, Sonoma Life Support transported Bell to Santa Rosa Memorial Hospital's Emergency Department. Emergency Room Dr. Russel examined him and opined that Bell suffered from a non-recoverable and non-operable brain injury. Bell remained on life support until he was declared dead at 10:15 p.m. They took blood samples and later transported them to NMS Lab for analysis. Forensic Toxicologist Daniel Isenschmid examined the samples using scientifically approved methods. The lab results showed Bell had a blood alcohol content of .086. His blood also tested positive for methamphetamine. CHP officers recovered two vodka bottles from the Subaru after the crash. Officers found a one-third empty bottle of vodka in the driver's seat and another empty vodka bottle under the seat. The officers also found a broken methamphetamine pipe on the ground near the Subaru.

Events Prior to the Pursuit

Jane Doe was Bell's girlfriend. On the morning of August 4, 2020, Jane Doe accompanied Bell to his court appearance. Bell became frustrated and left before his case was called. They returned to the Subaru and Bell drove to a liquor store, where he bought two bottles of vodka and began drinking. Bell drove them around for a while. At times, he drove erratically. Jane Doe explained that she had been in the car with Bell previously when he ran from police. She stated he "lives for" the thrill of the chase. Jane Doe stated that Bell had used methamphetamine.

Autopsy

On August 5, 2020, Forensic Pathologist Dr. Kimi Verilhac conducted a post mortem examination of Bell. Dr. Verilhac noted numerous injuries throughout Bell's body and head. Dr. Verilhac determined that Bell died from blunt force injuries as a result of the traffic collision.

V. STATEMENT OF THE LAW

Under Penal Code § 830 Santa Rosa Police Department officers are peace officers and are tasked with enforcement of state law. When violations of law occur in their presence, they have a lawful duty to investigate them. In this case, Officer Jones responded to a domestic violence call in the Costco parking lot. He saw Bell appear to strike Jane Doe and witnessed her flee from the parked Subaru in a distraught state of mind. Officer Jones had a legal duty to investigate this possible violation of Penal Code § 243(e), domestic battery. Officer Jones followed Bell to carry out this duty to stop and detain Bell as Bell fled from him. Officer Jones was still in pursuit when Bell ran the red light, collided with the truck in the intersection, slammed into a pole and was ejected onto the street.

The law of homicide divides crimes into various categories according to severity including murder, voluntary manslaughter, vehicular manslaughter, and involuntary manslaughter.

Penal Code § 187(a) defines murder as the “unlawful killing of a human being . . . with malice aforethought.” There is no evidence that Officer Jones harbored malice aforethought when he followed Bell through the parking lot and onto the roadway after witnessing Bell commit an act of domestic violence. There is no evidence that Officer Jones directly or proximately “caused” Bell’s death. Bell’s decision to flee a lawful investigative stop and drive erratically caused his own death. Therefore, Penal Code section 187 does not apply to these facts.

Likewise, the law of voluntary manslaughter does not apply, in that the facts of this case do not involve mitigation evidence such as sudden provocation or heat of passion and do not involve any theory of “imperfect self-defense.”

The law of vehicular manslaughter likewise does not apply. Officer Jones did not engage in criminally negligent behavior in his pursuit of Bell, nor did his vehicle collide with Bell’s vehicle or cause Bell’s vehicle to collide with the truck or pole. In fact, Officer Jones’ conduct in using his lights, siren and low speed pursuit was reasonable and consistent with his law enforcement duty to investigate crimes committed in his presence.

Penal Code § 192(c) (2) provides that involuntary manslaughter is committed when a person drives “a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence”. The jury instruction, CALCRIM 580, defines the elements of involuntary manslaughter. “The defendant committed involuntary manslaughter if:

1. The defendant committed a crime or a lawful act in an unlawful manner.
2. The defendant committed a crime or act with criminal negligence; and
3. The defendant’s acts caused the death of another person.”

Officer Jones lawfully pursued Bell as Bell fled from Officer Jones at a high rate of speed through a busy shopping parking lot and adjacent streets. Officer Jones, aware of the threat Bell posed to the public, had his lights and siren on to alert people in the vicinity of the possible danger while following Bell at a slow rate of speed. Officer Jones did not commit a lawful act in an unlawful manner, nor did Officer Jones act with criminal negligence by his careful driving in slow pursuit.

Bell fled from Officer Jones at a high rate of speed through a busy shopping center parking lot and roadway in violation of Vehicle Code §22350, unsafe speed. In addition, Bell was driving under the influence of alcohol in violation of Vehicle Code §23152(a) and (b), driving with a blood alcohol concentration above .08. Bell caused the collision when he ran a red light at a high rate of speed to evade Officer Jones and collided with a truck who was lawfully making a left-turn. In contrast, Officer Jones did not commit any traffic violations. Officer Jones' thoughtful and careful pursuit of a violent and dangerous person who posed a risk of harm to all in the vicinity did not cause Bell's death. Instead, it was Bell's erratic and unsafe driving that caused his own death. Accordingly, Officer Jones is not criminally liable for Bell's death.

VI. CONCLUSION

Officer Jones is a peace officer in the State of California. He has the statutory duty to enforce the laws of this state. In this case, Officer Jones was carrying out that duty in his attempt to stop Bell after witnessing him strike his girlfriend and then flee from him at a high rate of speed through a busy parking lot and streets. In an effort to evade the enforcement stop, Bell ran a red light and collided with another vehicle before smashing into a pole. Officer Jones did not use any lethal force, did not act in an unlawful manner, or with criminal negligence, nor did he cause Bell's death. Consequently, there is no basis for any criminal charges against Officer Jones.

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