

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



Employer Agency: Sonoma County Sheriff's Department

Lead Agency: Santa Rosa Police Department

Decedent: Karen Audra Janks

Date of Incident: April 22, 2015

Report Prepared by:

SONOMA COUNTY DISTRICT ATTORNEY

RELEASED TO GENERAL PUBLIC

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I. INTRODUCTION

On April 22, 2015, Karen Audra Janks died as a result of multiple gunshot wounds sustained by Deputies employed by the Sonoma County Sheriff's Office. The shooting event occurred at the conclusion of a lengthy vehicle pursuit. Janks was 46 years old at the time of her death. The Sonoma County Sheriff's Office immediately 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 this protocol, an outside law enforcement agency is to investigate officer involved fatalities. Accordingly, members of the Santa Rosa Police Department assumed responsibility for the investigation of this shooting incident. Members of the Sonoma County District Attorney's Office were also assigned to participate in the investigation.

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 involved parties, including the law enforcement employees; to provide assistance to the investigative agency regarding legal issues; to supplement the investigation when necessary; and when appropriate, to prosecute those persons believed to have violated the criminal law.

Once the investigation is completed, the District Attorney is required to conduct 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

foreman of the Sonoma County Grand Jury.

The Following report has been prepared by the Sonoma County District Attorney. It includes a summary of facts surrounding the death of Karen Audra Janks, statement of applicable law, legal analysis and specific conclusions.

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 any involved party, including the involved law enforcement employees.

III. STANDARD OF REVIEW

As chief law enforcement officer for Sonoma County, the District Attorney is responsible for reviewing, approving and filing of all criminal cases. The District Attorney's discretion to charge a person with a crime is limited by well-established legal and ethical standards.

The standard to be applied by the District Attorney in filing criminal charges is expressed in a publication of the California District Attorneys Association entitled, *Uniform Crime Charging standards*. 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 office (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 to convict, i.e. proof beyond a reasonable doubt, is the highest burden of proof within the American legal system.

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.

Background

Karen Audra Janks (hereafter Janks) was born on September 19, 1968. She died on April 24, 2015, as a result of multiple gunshot wounds. She was 46 years old at the time of her death. The gunshot wounds were sustained at the end of a lengthy vehicle pursuit with members of the Sonoma County Sheriff's Office.

Janks' criminal record dates back to 1998. Janks reportedly had a lengthy substance abuse history in which she had abused methamphetamine, cocaine, marijuana and alcohol. At the time of her death, she had amphetamine,

methamphetamine and marijuana in her system. It was reported that she self medicated with these drugs for her mental illness disorder of which she had been diagnosed as early as the age of 14. She did not voluntarily take medication for her disorder. The black purse located in Janks' vehicle had 3.7 grams, total package weight of marijuana and a six pack of beer with four unopened bottles lying in the front passenger seat. Janks was reported to have incurred many hospitalizations over the years for treatment of her psychiatric disorder. Janks' daughter lived with her grandparents due to Janks' dysfunctional lifestyle. Janks was known to show up on occasion screaming, ranting and raving. .

Janks was displaying psychotic behavior at the time of her most recent arrest, in Santa Clara County. On March 9, 2015, shortly after midnight, San Mateo Narcotics Task Force Agent Ron Venzon was leaving work to go home. He noticed he was being followed by a vehicle that continued to follow him as he performed evasive maneuvers and it went through red lights to stay up with him for several miles. He called 9-1-1 and the San Jose Police Department conducted a stop on Janks and eventually placed her under arrest for driving while under the influence (DUI). During that arrest she told officers that she thought the Agent Venzon was an old boyfriend and then that she thought he was her father. It was reported that she said that the officer wasn't real, that he was fake and a terrorist. She also reported hearing Jesus in her head. Janks was driving the same vehicle as this case, a 1996 Infinity G20.

Psychiatric History

Psychiatric records were sought and reviewed that indicated various hospitalizations, in addition to drug abuse and a pattern of leaving treatment against medical advice. Janks was involuntarily hospitalized six days prior to the pursuit after Santa Cruz Sheriff's Department Deputies had responded to her home regarding an eviction notice. When deputies arrived, they noticed that she was exhibiting paranoid and bizarre behavior. She was discharged one day later.

Events Leading Up to the Pursuit

On April 22, 2015, the reporting party was driving northbound on Highway 101 in the No. 2 lane. She noticed the headlights of a vehicle approaching her traveling in the opposite direction. As the vehicle approached, she noticed it was straddling the yellow lines which separate the No.1 lane from the center shoulder. Concerned that the vehicle was coming closer to her, she moved to the right portion of her lane. She estimated the vehicle passed her at about 55 miles per hour.

At 23:46 hours, the reporting party called 911 and reported that she saw a gold sedan driving southbound backwards in the northbound lanes of highway 101 in the city of Windsor. She reported that the vehicle made a U-turn and got off at the Windsor exit. Deputies from the Sonoma County Sheriff's Office, Deputy John Gillete, James Falberg and Daniel Edwards were dispatched out to investigate. At 23:50 hours, the call was closed when deputies could not find the vehicle, all other deputies were cancelled.

The Pursuit in Progress

Deputy Joel Pederson was working patrol in the city of Windsor when he heard the report of a wrong way driver on highway 101 that was broadcast by the Sheriff's dispatch. A short time later he located a similar vehicle as described by dispatch on Arata Lane near Old Redwood Highway. He followed the vehicle westbound on Arata Lane as it crossed through Old Redwood Highway, ran through a red traffic light and then entered a trailer park. He observed the vehicle make a u-turn in the trailer park and exit back onto Old Redwood Hwy at which time it turned northbound.

At 23:51 hours, Deputy Pedersen activated his emergency lights and siren and attempted to make a traffic stop but the vehicle was failing to yield northbound at Old Redwood Hwy and then entered Highway 101. The license plate number was recorded as 3PQP497, Janks' registered vehicle. The deputy reported that the vehicle was driving recklessly southbound on Highway 101 and that he had reached speeds of up to 115 miles an hour as he approached the Central Windsor off ramp. He described the car as a silver vehicle with one occupant in the car. Deputy Falberg and Edwards who were riding together in one car joined in the pursuit. They were located behind Deputy Pedersen. They dispatched that they were going 90 miles per hour and that the suspect vehicle shut its lights off. Deputy Lawrence Matelli and Eric Seibold joined the pursuit together in one car traveling at 90 miles per hour approaching the Airport Blvd. exit. Spike strips were placed at River Rd. but Janks avoided them by moving into another lane. As the deputies were reaching Todd Rd., they reported that they were traveling anywhere between 105 and 115 miles per hour on the freeway. Janks vehicle

continued on and exited at the Todd Rd. exit, drove through a red light at Moorland Avenue and swerved in the opposing lanes on Todd Rd. near Primrose Avenue traveling at 50 mph. As she sped through red lights, she nearly caused two traffic collisions with other vehicles, placing the public at risk. Janks then drove through another red light and increased her speeds up to 75 mph when she reached Llano Rd. Janks drove thru a stop sign at Llano Rd., turned right onto Old Gravenstein Hwy and drove at 40 mph with her headlights off. At 00:06:25 hours, Janks drove into a business park just before highway 116 and deputies blocked her vehicle in to prevent it from moving.

At 00:06:35 hours, Sergeant Craver advised that they were doing a high risk stop on Janks' vehicle. Deputy Pedersen exited his vehicle, approached Janks and tried to grab her door handle. Janks looked over at the deputy, looked away, revved the engine and the deputy could hear the wheels squealing, smoke from the tires and she was moving the car forward into the curb and back as if trying to move to get enough room to move out of that spot. Deputy Falberg, Edwards, Matelli and Seibold were on scene. As Janks was revving her car engine, all the deputies were yelling at Janks to turn off her vehicle. Deputy Pedersen, believing she was either trying to drive forward or back out based on the movements of her car, broke her driver's side window with his flashlight in an attempt to pull her out. Deputy Falberg broke her front passenger window after she failed to comply with orders to turn off and get out of the car. Janks looked over at Deputy Pedersen and yelled, "You can't do that." At the same time, Deputy Edwards and Matelli pulled out their tasers and Edwards warned the other

officers that he was about to deploy his taser by yelling, "Taser, taser!" Janks then started fiddling with the gears, looked back and revved the motor in what Deputy Pedersen believed was an effort to flee. As Pederson gave her several commands to show him her hands, she turned the steering wheel fully to the left and reversed.

By now, Deputies Matelli, Edwards, Falberg and Siebold had positioned themselves at the passenger side of the vehicle and were yelling, "Stop! Don't do it!" As soon as she placed the gear into reverse, she accelerated causing the vehicle to quickly move to the right hitting Deputy Falberg, Siebold and Matelli with the right side of her vehicle; both Matelli and Falberg were pushed by her vehicle towards Pedersen's patrol car. Deputy Falberg reported falling and feeling like he was being "pinned" between Janks and Pedersen's car. Deputy Matelli, who was standing at the passenger window of Janks vehicle at the time she reversed, was pushed by Janks vehicle to the right front quarter panel of Pedersen's car and was just inches between Janks and Pedersen's car. Deputy Seibold was hit hard by the vehicle and was thrown a distance away. The firearm he was holding fell out his hand and landed a short distance away. He described having no time to move out of the way when the car "whipped" to the right. Deputy Edwards was able to push himself away from the vehicle and avoided getting hit.

As Janks reversed, she also hit Deputy Pedersen's vehicle. Janks then placed her car into a forward gear and Deputy Pedersen could see her look both ways, she was gritting her teeth, she had a hard grip on the steering wheel and she was staring straight at a deputy that was walking towards her car. She then revved the engine and

accelerated forward at that deputy towards the exit of the parking lot. Deputy Pedersen felt that Janks was focused on preparing to drive at that deputy in an effort to escape. At that point, believing that she was going to run this deputy over and kill him, he aimed his firearm at the suspect's upper torso and fired one to possibly three rounds through the driver side window. Deputy Edwards, who had seen her hit two of the deputies with her car, knew that other deputies were approaching and thought she may run over Pedersen and Gillete, fired his weapon as well from the driver's side by the B pillar ; he believes he fired two to five times. Deputy Falberg who had just been hit with Janks vehicle, heard the car in gear with the engine still revving. Believing that his own life, and that of his fellow deputies were at risk due to the reckless actions of Janks who he believed was using her car as a weapon, believes that he fired his weapon at her two to three times. He was positioned near the front bumper on the driver's side and fired his firearm through the driver's side window. Deputy Matelli, believing that she would run over Pedersen and the other deputy with him pulled out his firearm and believes that he shot at Janks two times from the driver's side. Deputy Seibold, who had just been hit by Janks' vehicle, heard a "Pop, pop." Once he recovered his gun, he worked the action in the event it had been damaged ejecting a round (tap rack) onto the ground in the flow of water from the fire hydrant Janks had struck. After Janks slumped over, deputies stopped shooting and the vehicle proceeded westbound through the parking lot, over a parking lot island and fire hydrant, coming to rest at a trash dumpster pen in the parking lot.

Several Deputies tactically approached the vehicle, after a few seconds they

realized the driver was severely wounded and shut the engine off. At 00:06:43 hours, several requests were made for medical personnel to be summoned to the scene. Deputy Matelli and Edwards pulled Janks out of her vehicle and checked for a pulse. Deputy Matelli looked for injuries, noticed a wound below her left collar bone and applied direct pressure to stop the bleeding. Deputy Matelli was then sequestered. Deputies Ryan Patrick, Henri Boustany and Erick Gelhaus then arrived on scene. All three deputies assisted with medical assistance. Deputy Patrick cut Janks' clothing off. They could see that she had wounds to her forehead and chest and that the chest would have to be covered up before CPR could be administered. Deputies made sure there weren't any exit wounds to her back. Deputy Gelhaus' gunshot wound kit was retrieved from his vehicle, he placed a plastic covering over her chest wound, a dressing over that and applied pressure to stop the bleeding. Deputy Patrick checked for a pulse and then began CPR on her. He completed 4-5 sets of 10-15 chest compressions. He would start chest compressions each time her pulse would fade. During this time, Deputy Boustany helped keep her airway open, checked her pupils, and checked for a pulse. Deputies administered chest compressions until medical personnel arrived and put her on a gurney.

Firefighters Larry O'Brien and Bennett Holden along with American Medical Response Paramedics Karin Dowling and Russell Peters were dispatched to a shooting with CPR in progress. When they arrived, they saw Deputy Patrick performing chest compressions. Janks was moaning and moving and they realized she was breathing and had a pulse. EMT Peters told Deputy Patrick to stop compressions as they were no

longer needed. It appeared to him that Janks had an injury to her left temple, two in her chest with one above her left and right breast respectively, an injury to her right bicep and an injury to her right pointer finger. Firefighter Holden placed Janks on a backboard and attempted to secure her airway by using an oral pharyngeal airway but could not put it in place as her jaw was clenched shut. He instead had a nasopharyngeal airway placed in Janks nose and assisted with ventilations with a bag and valve mask. Janks was then transported to Santa Rosa Memorial Hospital. Medical records show that after it was discovered that she had a non survivable brain injury, no further efforts were made to manage the ongoing and severe injuries on her body. She was pronounced dead on April 24, 2015 at 1526 hours.

Post Incident Conduct of Deputy Joel Pedersen

After the incident, Deputy Pedersen was shaken by what had just transpired, concerned, and appropriate to the circumstances. He was comforted by deputies on scene. Deputy Pedersen was cooperative both at the scene, and later during an investigative interview with Detective Tim Hughes and Detective Hector De Leon of the Santa Rosa Police Department.

Additionally, it should be noted that Deputy Joel Pedersen was employed by the Sonoma County Sheriff's Office for 25 years, 5 years of that as a correctional officer. He had been on patrol since 1995, excluding the five years he spent as a detective. He had been a hostage negotiator with the department since 2001. Since 2005, he had been on the TAC team which is in charge of crowd control, civil disobedience and civil

unrest which required training on the use of force.

On the day in question, he was driving a distinctively marked Sonoma County Sheriff's patrol vehicle equipped with emergency lights and siren. He was wearing a standard issue uniform which consisted of forest green cotton pants, a tan sleeved uniform shirt that had a star shaped badge embroidered to the left chest area and Sheriff's patches on each shoulder. He was also equipped with a duty belt that held his firearm described as a Sig Sauer P220, a 45 caliber semi-automatic. Additionally, the belt carried a taser, OC spray and his flashlight. Deputy Pedersen had no physical or mental limitations that affected his ability to perform his duties. Deputy Pedersen was not sick or injured. He had not taken any medications that would affect his abilities as a police officer and had not consumed any alcohol 24 hours prior to the incident.

Post Incident Conduct of Deputy Daniel Edwards

After the incident, Deputy Edwards assisted in pulling Janks out of the vehicle after deputies realized she was wounded. They dragged her away from the vehicle and Edwards checked for a pulse. He was immediately taken away by Sgt. Craver and sequestered as he had fired his weapon during the incident. Deputy Edwards was cooperative both at the scene, and later during an investigative interview with Detective Tim Hughes and Detective Hector De Leon of the Santa Rosa Police Department.

Additionally, it should be noted that Deputy Daniel Edwards was employed by the Sonoma County Sheriff's Office for over 1 year. 19 years prior to that, as a deputy, 12 of that as a Sergeant for the Mendocino County Sheriff's Office. He was a field training

officer, was a member of their SWAT team as a sniper.

On the day in question, he was doubled up with Deputy Falberg and they were driving a distinctively marked Sonoma County Sheriff's patrol vehicle equipped with emergency lights and siren. He was wearing a standard issue uniform which consisted of forest green cotton pants, a tan sleeved uniform shirt that had a star shaped badge embroidered to the left chest area, a cap and Windsor Police patches on each shoulder of the shirt and cap. He was also equipped with a duty belt that held his firearm described as a Glock 17, a 9 millimeter semi-automatic pistol. Additionally, the belt carried a taser, OC spray, handcuffs, portable radio, collapsible asp baton, a Leatherman multi tool and his flashlight. He also had a .38 Smith and Wesson revolver in his left cargo pocket. Deputy Edwards had no physical or mental limitations that affected his ability to perform his duties. He was not sick or injured. He had not taken any medications that would affect his abilities as a police officer and had not consumed any alcohol 24 hours prior to the incident.

Post Incident Conduct of Deputy James Curtis Falberg

After the incident, Deputy Falberg was sequestered as he had fired his weapon during the incident and taken to Kaiser Hospital for his injuries. Those injuries consisted of abrasions to his right hand and gouges and scrapes to his right forearm. He also suffered soreness to his right knee, lower back and neck. Deputy Falberg was cooperative both at the scene, and later during an investigative interview with Detective Tim Hughes and Detective Hector De Leon of the Santa Rosa Police Department.

Additionally, it should be noted that Deputy James Falberg was employed by the Sonoma County Sheriff's Office for 9 years. At the time of the incident, he was a member of the Bomb Squad, the TAC team and a member of the Honor Guard. He also had use of force training as required by the TAC team.

On the day in question, he was doubled up with Deputy Edwards and they were driving a distinctively marked Sonoma County Sheriff's patrol vehicle equipped with emergency lights and siren. He was wearing a standard issue uniform which consisted of forest green cotton pants, a tan sleeved uniform shirt that had a star shaped badge embroidered to the left chest area and Windsor Police patches on each shoulder of the shirt. He was also equipped with a duty belt that held his firearm described as a Glock 17, a 9 millimeter semi-automatic pistol. Additionally, the belt carried a taser, OC spray, handcuffs, portable radio, collapsible asp, a Leatherman multi tool and his flashlight. He also had a .38 Smith and Wesson revolver. Deputy Falberg had no physical or mental limitations that affected his ability to perform his duties. He was not sick or injured. He had not taken any medications that would affect his abilities as a police officer and had not consumed any alcohol 24 hours prior to the incident.

Post Incident Conduct of Deputy Lawrence Matelli

After the incident, Deputy Matelli was sequestered as he had fired his weapon during the incident and eventually taken to Kaiser Hospital for his injuries. Those injuries consisted of abrasions to his right hand, an abrasion to his left forearm, bruising to both hands and on his inner left arm. He also suffered bruising to his left knee and had pain

to his left shoulder. Deputy Matelli was cooperative both at the scene, and later during an investigative interview with Detective Tim Hughes and Detective Hector De Leon of the Santa Rosa Police Department.

Additionally, it should be noted that Deputy Matelli was a law enforcement officer for eight years; three years with the Sonoma County Sheriff's Office and the other five with the Marin County Sheriff's Office. At the time of the incident, he was a firearms instructor, was on the SWAT team, was an armorer for Glock and AR-15's, and was on the Off Road Motorcycle Team for the department. He had three years prior to that on the SWAT team with Marin County.

On the day in question, he was doubled up with Deputy Eric Seibold and they were driving a distinctively marked Sonoma County Sheriff's patrol vehicle equipped with emergency lights and siren. He was wearing a standard issue uniform which consisted of forest green cotton pants, a tan sleeved uniform shirt that had a star shaped badge embroidered to the left chest area and Windsor Police patches on each shoulder of the shirt. He was also equipped with a duty belt that held his firearm described as a Glock 17, a 9 millimeter semi-automatic pistol. Additionally, the belt carried a taser, OC spray, two pairs of handcuffs, portable radio, three spare magazines, a collapsible asp, a Gerber multi tool and his flashlight. Deputy Matelli had no physical or mental limitations that affected his ability to perform his duties. He was not sick or injured. He had not taken any medications that would affect his abilities as a police officer and had consumed one beer the day before the incident.

Post Incident Conduct of Deputy Eric Seibold

After the incident, Deputy Seibold sustained injuries after being struck by Janks vehicle. Those consisted of a 1” abrasion and swelling to his left elbow. Deputy Seibold was cooperative both at the scene, and later during an investigative interview with Detective Gregory Wojcik of the Santa Rosa Police Department.

Additionally, it should be noted that Deputy Seibold was a law enforcement officer for a total of eleven years; eight years with the Sonoma County Sheriff’s Office and the other three with the Los Angeles County Sheriff’s Office. At the time of the incident, he had been on the SWAT team for three years and a Defensive Tactics Instructor for four.

On the day in question, he was doubled up with Deputy Lawrence Matelli and they were driving a distinctively marked Sonoma County Sheriff’s patrol vehicle equipped with emergency lights and siren. He was wearing a standard issue uniform which consisted of forest green cotton pants, a tan sleeved uniform shirt that had a star shaped badge embroidered to the left chest area and Windsor Police patches on each shoulder of the shirt. He was also equipped with a duty belt that held his firearm described as a Glock, a 9 millimeter semi-automatic pistol. Additionally, the belt carried two pairs of handcuffs, a flashlight, a portable radio, two spare magazines and a backup firearm (.38 caliber Smith and Wesson revolver). Deputy Seibold had no physical or mental limitations that affected his ability to perform his duties. He was not sick or injured. He had not taken any medications that would affect his abilities as a police officer and had consumed not consumed any alcohol 24 hours before the incident.

Pursuit Summary

In summary, the pursuit began at Old Redwood Hwy and Starr Rd; it continued northbound on Old Redwood Hwy and continued onto Southbound Highway 101; it continued as they exited on Todd Road; the pursuit terminated at 2661 Old Gravenstein Hwy.

In all, the pursuit lasted about 15 minutes and covered a distance of about 20 miles. If driven at normal lawful speeds it takes about 25 minutes to drive the route. We know from reviewing Sonoma County Sheriff's Office event chronologies that the pursuit began at 23:51:22. The pursuit terminated at 00:06:25 hours when deputies transmitted that they had Janks' vehicle blocked in at the business park. During the pursuit, Janks drove in a reckless and wanton fashion. She chose to unlawfully evade the police by driving recklessly on the freeway and on city streets. In fact, she almost caused two collisions after exiting Todd Rd. She ignored speed limits, drove into oncoming lanes of traffic, through stop signs, through stop lights, through controlled intersections, and seriously endangered pedestrians and other motorists. She also drove with her lights off during much of the pursuit.

Autopsy

On April 27, 2015, a post mortem examination was conducted by Dr. Joseph Cohen, M.D., a medical doctor certified in the area of forensic pathology, employed by Marin County. The cause of death was determined to be the result of multiple gunshot

wounds. A total of five gunshot wounds were identified to her head, chest, right arm, right hand and pelvis.

Another significant condition identified was methamphetamine intoxication. A blood sample was taken from Janks at the hospital and sent to NMS Labs, a qualified forensic lab to be analyzed for the presence of controlled substances. The blood sample was determined to have contained amphetamine, methamphetamine and marijuana. The methamphetamine levels were considered to be very high.

Amphetamine and methamphetamine are powerful central nervous system stimulants that can have a significant effect on the human body, and on human behavior. The lab report indicated the levels of methamphetamine in Janks blood, 450ng, were consistent with levels found in individuals who have exhibited violent and irrational behavior. Further, the lab report indicated that high doses of methamphetamine can elicit restlessness, confusion, hallucinations, circulatory collapse and convulsions.

V. STATEMENT OF THE LAW

The sole issue to be resolved is whether the shooting of Karen Audra Janks was unlawful because the force used by the deputies 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 the deputies was reasonably necessary under the circumstances to accomplish a lawful law enforcement purpose. The issue must be resolved as to each deputy individually.

Deciding the issue involves analyzing 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 explication of the controlling principles of law to be applied to this case, it is a correct statement of the law to be applied.

A peace officer has the authority to make an arrest of an individual upon probable cause to believe a crime has been committed. An individual has a duty to submit to lawful arrest.¹

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 the escape, or to overcome resistance.²

A peace officer may also detain an individual upon a reasonable suspicion that the person to be detained has engaged in criminal activity. The purpose for the detention is to allow the peace officer an opportunity to confirm or dispel the suspicion of criminal activity. The standard to be applied for a lawful detention is somewhat less than what is required for an arrest.³

An individual has a duty to submit to lawful detention.

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

¹ California Penal Code Sections 834 and 834a

² California Penal Code Section 835a

³ *United States v. Sokolow* (1989) 490 U.S. 1; *Terry v. Ohio* (1968) 392 U.S. 1

prevent escape, or to overcome resistance.

Attempting to evade a peace officer while driving recklessly is a public offense for which an arrest can be made.⁴

Head long flight from a law enforcement officer can, under the totality of the circumstances constitutes the requisite reasonable suspicion to detain an individual.⁵

Any person, including a peace officer has a right to use reasonable force in self-defense or for the defense of others.⁶ 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 he 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; the person used no more force than was reasonably necessary to defend against that danger.⁷

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.⁸

Both self-defense and defense of others are complete defenses to a homicide and make the homicide justifiable.⁹

⁴ California Vehicle Code section 2800.2

⁵ *Illinois v. Wardlow* (2000) 528 U.S. 119

⁶ California Penal Code sections 692-694

⁷ See Calcrim 505

⁸ See Calcrim 505

⁹ California Penal Code section 199; See Calcrim 505

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 any 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.¹⁰

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.¹¹

In the leading case of *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082-83, the California Supreme Court succinctly and definitely articulates the law of self-defense (which applies equally to the defense of others):

“For a killing to be 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,” ie., “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,” ie., 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

¹⁰ See Calcrim 507; Penal Code sections 196, 199

¹¹ See Calcrim 507; Penal Code sections 189.5, 199

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 of the “fact 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 of elements in the case which might be expected to operate in his mind...’ (Citations omitted.)

In a leading California Appellate decision, *People v. Arias* (1989) 215 Cal.App.3d 1178, 1188, the court defines what is meant by *imminent harm* as applied to the law of self-defense:

“The definition of imminence in California has long been settled. ‘A person whose life has been threatened by another, whom he knows or has reason to believe has armed himself with a deadly weapon for the avowed purpose of taking his life or inflicting great personal injury upon him, may reasonably infer, when a hostile meeting occurs, that his adversary intends to carry his threats into execution. The previous threats alone, however, unless coupled at the time with an apparent design then and there to carry them into effect, will not justify a deadly assault by the other party. There must be such a demonstration of an immediate intention to execute the threat as to induce a reasonable belief that the party threatened will lose his life or suffer serious bodily injury unless he immediately defends himself against the attack of his adversary. The philosophy of the law on this point is sufficiently plain. A previous threat alone, unaccompanied by an immediate demonstration of force at the time of the reencounter [*sic*], will not justify or excuse an assault, because it may be that the party making the threat has relented or abandoned his purpose, or his courage may have failed, or the threat may have been only idle gasconde, [*sic*] made without any purpose to execute it. On the other hand, if there be at the time such a demonstration of force...[indicating] that his adversary was on the eve of executing the threat, and that his only means of escape from death or great bodily injury was immediately to defend himself against impending danger...” (Citations omitted.)

VI. LEGAL ANALYSIS

At the time the deputies became involved in this incident, Janks was ostensibly

engaged in the commission of a number of very dangerous crimes; including but not limited to: Driving under the influence of methamphetamine, amphetamine and marijuana, reckless driving, and felony evading a peace officer. Janks had a legal duty to submit to Deputy Pedersen's original lawful show of authority when he activated his patrol vehicle's emergency lighting and siren.

Instead of lawful submission, Janks chose a different course. Janks chose to unlawfully evade the police by driving recklessly, ignoring speed limits, driving into on-coming lanes of traffic, through stop signs, through stop lights, endangering pedestrians and other motorists; in sum, driving in a reckless and wanton manner in order to evade police contact or capture which put the community at great risk of injury or death.

The initial call to dispatch of a similar vehicle driving down the wrong way on the freeway, running the red light on Old Redwood Highway and the dispatch reports coupled with Janks' headlong flight, would reasonably compel a conclusion that Janks was involved in some sort of criminal or nefarious activity. Hence, the pursuing Sonoma County Sheriff's Deputies, and specifically Deputy Pedersen, were clearly within the lawful course and scope of their employment at the time of the pursuit.

Given the inherent unpredictability of this high speed pursuit and its abrupt conclusion of Janks evading commands to get out of the car and show her hands, it was reasonable for the deputies to draw their weapons at Janks for a high risk stop. The elements of unpredictability and potential danger must reasonably be met with extreme caution. After all, Janks' evasion did not end voluntarily, but as a result of Deputy Pedersen blocking her into a space.

The law does not require a progressive escalation in the force which is employed in these types of situations because the exigencies of real world law enforcement do not make such a course of conduct always feasible. That is because such a progression is not reasonable under many real world situations in which an officer is faced with a direct and immediate threat to life and limb.

Deputy Pedersen was in a distinctively marked patrol vehicle, he was in a distinctively marked uniform, and had previously announced himself with emergency lights and siren. There was simply no mistaking him for anything but a law enforcement officer. Even stopping her vehicle in a parking lot did not bring the encounter to a peaceful conclusion.

Once at the business park, on Old Gravenstein Hwy, it is overwhelmingly clear that Janks directed threats to Deputy Pedersen, Matelli, Edwards, Falberg, Siebold and all of the other deputies who had arrived on scene. Janks was being aggressive in her demeanor as she failed to follow commands to show her hands, get out of the car and even more aggressive, posing a threat to the officers lives, when she tried to move her car forward and back prior to reversing. Moreover, when Janks turned her steering wheel to the left and reversed out of the space, it was clear that she was an imminent danger and a threat to the officers' lives as evidenced by the fact that she hit Deputies Falberg, Matelli and Siebold with the vehicle and nearly hit Deputy Edwards who pushed off of her car. As she hit the deputies, she nearly pinned Matelli and Falberg between her car and Pedersen's vehicle who she hit while reversing out of her space. It was entirely reasonable for Deputies Pedersen, Edwards, Matelli and Falberg to believe

that a weapon was used, the car, and reasonable for them to believe that they and other deputies on scene were in imminent danger of being killed.

It was obvious, that no show of authority was going to stop Janks; emergency lights and siren did not stop her; being blocked into a space and ordered to show her hands did not stop her; being ordered to "Stop! Stop!" when she was moving her car forward and backward prior to reversing did not stop her; she was bent on getting away from the officers no matter at what cost as evidenced by her actions.

It bears noting, that the law enforcement response in this case was at all times professional, thoughtful, and proportionate to the evolving situation. From the beginning of the pursuit, the involved deputies planned for non-lethal intervention and attempted it numerous times. The deputies tried to get ahead of the pursuit in order to stop it; activated the emergency lights and sirens of numerous vehicles; used spike strips to try and disable the car; requested and obtained permission to perform a non-lethal ramming maneuver (PIT) in order to disable Janks vehicle; gave continuing loud and clear voice commands to Janks.

The law imposed upon the deputies the duty to behave reasonably. Deputies Pedersen, Falberg, Matelli and Edwards all behaved reasonably under the circumstances; in stark contrast to Janks who was behaving wildly and unpredictably and in a fashion that would suggest to a reasonable person that they were in imminent peril of serious bodily injury or death.

VII. CONCLUSION

While in the lawful performance of their duties, Deputies Pedersen, Matelli, Edwards

and Falberg became involved in a highly unpredictable and rapidly evolving situation not of their creation or of their choosing. It was a situation fraught with potential dangers to members of the public, themselves and to their fellow deputies. The deputies attempted to carry out their law enforcement objective with non lethal force actions. Their earnest and substantial efforts proved to be unsuccessful. Janks never submitted to their lawful show of authority during the vehicle pursuit and after she stopped her in the parking lot of a business. She ignored further non-lethal attempts to bring the situation to a peaceful conclusion, even though she had a legal obligation to submit. These deputies acted appropriately in order to suppress what to all appearances was a dangerous person bent on trying to escape at all costs. Even if that meant using her vehicle as a weapon to seriously injure or kill deputies that were in her way.

The implementation of lethal force was a reasonable response and justified under the circumstances. Therefore, based on the facts, the actions of Deputy Joel Pedersen, Lawrence Matelli, James Falberg and Daniel Edwards were reasonable under the circumstances with which they were faced, legally justified, and no criminal charges should be filed against them at this time.

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