

The County of Yuba

OFFICE OF THE DISTRICT ATTORNEY



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DATE: August 18, 2015

TO: Steven Durfor
Yuba County Sheriff

FROM: Patrick McGrath
District Attorney

SUBJECT: Review: Officer-Involved Fatal Event
February 15, 2015; 0200 hours

Involved Party: Chance Dale Thompson
Involved Deputies: Jaime Knacke
Daniel Trumm

Please accept this letter detailing the Yuba County District Attorney's Office's review of and legal conclusion in connection with the February 15th, 2015, fatal officer-involved event involving Chance Dale Thompson and the Yuba County Sheriff's Office deputies identified above.

The letter includes an overview of the relevant evidence, including investigative reports, witness statements, photographs related to the event scene and Mr. Thompson's hospitalization, Taser discharge data, Taser training records related to Dep. J. Knacke, toxicology and forensic autopsy examination reports, and Mr. Thompson's criminal history.

The letter also includes the legal principles applied in analyzing the incident and determining whether there was criminal culpability on the part of either of the YCSO deputies involved in this event.

The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of either deputy. The Yuba County District Attorney's Office will not be addressing any issues of policy, training, tactics or civil liability.

OVERVIEW

1. Items Reviewed

The following items were reviewed by District Attorney Patrick McGrath.

- Yuba County Sheriff's Office chronological event record (author: Detective B. Martin)
- Yuba County Sheriff's Office incident report 15- 0659 (authors: Dep. J. Knacke; Dep. D. Trumm; Sgt. J. Jellsey; Dep. R. Mayes)
- Yuba County Sheriff's Office incident report 15- 0697 (authors: Det. B. Martin; Det. Sgt. P. Spadini; Dep. S. Dhaliwal)
- Yuba County Sheriff's Office computer assisted dispatch (CAD) records for February 15th, 2015, from 0200 through 0300.
- Yuba County Superior Court Search Warrant 15-019
- Western Aggregates, LLC incident report for February 15th, 2015.
- Yuba County Coroner's report 15-0722 (authors: Dep. J. Nakamura; Dep. S. Dhaliwal; Sgt. G. Sizelove)
- Forensic autopsy report for Chance Dale Thompson (author: Donald Henrikson, M.D.) and relevant photographs (Dep. S. Dhaliwal)
- National Medical Services, Inc. toxicology report 15054834
- CD/DVD photographs of the incident location and vehicle (1998 VW Jetta).
- CD/DVD interviews of witnesses D. Minor, T. Coward, M. Coward, A. Atkinson, C. Alexandra, and S. Aldridge.
- CD/DVD videotape of the incident (from the Appeal Democrat video link)
- YCSO Taser training record (Dep. J. Knacke)
- California criminal history of Chance Dale Thompson
- Yuba County Superior Court pre-sentence report in case CRF13-0260; Defendant Chance Dale Thompson

2. Facts as determined from the reviewed materials

- A. Western Aggregates, LLC manufactures and distributes concrete and aggregate products for use in the construction trades. It maintains a plant at 4711 Hammonton-Smartsville Road in the unincorporated area of Yuba County. This is a largely unimproved nonresidential location approximately one-half mile down an unimproved road off of Hammonton-Smartsville Road. The entrance is marked by a large sign immediately behind an approximately 3 foot raised decorative rock wall capped with level brick approximately 2 feet wide, as shown in Photographs 1 and 2. The main gate to the business is nearby. Law enforcement service to this portion of the County is provided by the Yuba County Sheriff's Office. Additional security at the site is provided by a private contractor.
- B. On February 15th, 2015, at 2:00 a.m. the Yuba County Sheriff's Office dispatch received a 9-1-1 call transferred from California Highway Patrol dispatch. The caller, identified as D. Minor, stated he was a security guard at the Western Aggregates facility. He stated there was a white male adult at the main gate area jumping on the rocks, and requested a Sheriff's response. The person was described as wearing jean pants and no shirt.
- C. At 2:02 a.m. YCSO Deputy J. Knacke was dispatched to the call. At 2:03 YCSO Deputy D. Trumm was also dispatched to the call. Both deputies were in full uniform and driving marked patrol cars. Dispatch logs reflect both deputies arrived at 2:13 a.m. The deputies observed Chance Dale Thompson standing on the raised rock wall, which was approximately 20 feet from where the patrol cars were parked. Thompson was wearing jean pants, no shirt, and boots. He was estimated by Dep. Trumm to be 6 feet tall and weighing 200 pounds. A flat area immediately in front of the wall was illuminated by an overhead light. Near the rock wall the deputies saw a parked Volkswagen Jetta with the driver's door standing open. The license plate number was provided to YCSO dispatch and returned to Mr. Thompson. YCSO Sgt. J. Jellsey, who was not on scene but was listening to radio traffic, advised by radio that he believed Mr. Thompson was on Post Release Community Supervision. Sgt. Jellsey then began driving to the location from the Sheriff's Office.
- D. Both deputies approached Mr. Thompson on foot. As they approached, Thompson was seen to pace on the top of the rock wall with balled fists in what was described as a "fighting stance". He was shadow punching with his fists and performing karate style kicks with his legs while pacing the wall. From approximately 5 feet away, the deputies attempted to speak with Thompson by asking if he was okay and asking him to get down off the wall. Thompson was illuminated by Knacke's flashlight, and initially did not react to the deputies voices. Thompson was visibly sweating and speaking erratically. Based on Thompson's behavior, both deputies believed him to be under the influence of a controlled substance.

- E. Both deputies report that Mr. Thompson was asked multiple times to either get off the wall or to sit on the wall. Thompson was speaking incoherently, continued to pace the wall as previously described, and ignored the deputies. Based on this behavior and Thompson's size, Dep. Knacke unholstered her Taser and directed the targeting beam on Thompson's chest. Thompson was told to get off the wall or he would be tased. Thompson's behavior did not change, and both deputies recall him saying that they were not to come up on the wall because "they will get us".

Deputy Trumm reported that he reached up to grab the back pocket of Mr. Thompson's pants in order to take him down off the wall. Thompson then was either pulled down or jumped down to the ground landing on his feet. Trumm reported that Thompson immediately began to fight him and reached around the deputy's head in an apparent attempt to place the deputy in a head lock.

- F. This activity was captured on a 42 second long video taken by a group of persons unrelated to any of the parties. The group is on the opposite side of the flat area in front of the rock wall and had no interaction with either Mr. Thompson or the deputies. Members of the group believe they were between 30 and 45 feet from the rock wall. The video was made available by them to the Appeal Democrat newspaper and shown on the paper's web link. The group's observations are provided in Paragraph O.

The video shows Mr. Thompson moving atop the rock wall in a back and forth motion, posing in a karate style fighting stance with balled fists. Dep. Knacke is approximately 10 to 15 feet to the left of Thompson and Dep. Trumm is directly in front of the wall facing him. The targeting beam of Dep. Knacke's Taser can be seen on Thompson chest and back as he circles back and forth. Thompson then appears to turn on the wall to his right in the direction of Dep. Trumm. As he completes this action he either jumps from or is pulled from the wall by Trumm. Thompson lands on his feet in contact with Trumm and attempts to place the deputy in a headlock. As this occurs, Dep. Knacke responds and deploys her Taser from a distance of approximately 5 feet. Thompson falls to the ground on his stomach with Dep. Trumm beside him to Thompson's left. The video ends.

Photograph 3 is a screen shot taken from the video showing the relative positions of the parties while Mr. Thompson is still on the wall.

- G. A second video, taken from the same group, is 13 seconds long and begins immediately before Thompson leaves the wall and concludes at the same time the first video does. The filming location appears to be same as the first video. The only difference is that this video has audio in which Mr. Thompson can be heard in a sound best described as "roaring".

Photograph 4 is a screen shot from the video showing the struggle between Thompson and Trumm before going to the ground, with Deputy Knacke to the left pointing her Taser.

- H. Dep. Trumm attempted to take Thompson's left arm and reported he felt the Taser charge. As soon as the charge ended, Thompson began to fight any efforts to be held by flailing his arms and legs around. Both Knacke and Trumm attempted to hold Thompson down but were "bucked" off. Knacke cycled the Taser again with little effect. As Thompson continued to resist efforts to control him, Knacke recalled cycling the Taser four times as she and Trumm struggled on the ground with Thompson. Trumm was able to place Thompson's left hand in a rear wrist lock and place a handcuff on the wrist. Knacke and Trumm were then able to control Thompson's right hand, which he had above his head with fist clenched, and move it behind Thompson's back and secure it with the handcuff.
- I. After being handcuffed, Thompson continued to buck and kick his legs. Knacke and Trumm reported that they were unable to control Thompson by laying on him or using wrist locks. At 2:17:45 Knacke advised dispatch that a Taser had been used. At 2:18:19 Sgt. Jellsey, who was still reroute to the location, requested a medical response. Linda Fire, Cal-Fire, and Bi-County Ambulance were dispatched.
- J. Knacke and Trumm reported that Thompson did not respond to verbal commands to stop fighting and was warned he would be tased again, with no effect. Knacke cycled the Taser again, and Trumm observed Thompson's body tense during the charge, and then resume bucking and kicking. As Trumm moved Thompson's feet to a position with one ankle behind the knee of the other leg in an effort to create a "figure four" control hold, Thompson's breathing became labored and his face took on a bluish color. Thompson was rolled onto his right side, was observed to be breathing, and then began to struggle again by bucking and kicking. Thompson was rolled back onto his stomach, resumed bucking and kicking, and efforts were again made to place his legs in a control hold. Thompson's breathing again became labored and he was again rolled onto his right side. Knacke reports that she did not cycle the Taser after Thompson's breathing first became labored.
- K. Dispatch logs report that Sgt. Jellsey arrived on scene at 2:24:29 a.m. Responding medical and fire services were still enroute. Jellsey reported that upon his arrival, Mr. Thompson was on his right side on the ground with both deputies present next to him. Thompson appeared to have difficulty breathing, there was white foam around his mouth and nose, his face was red, and his pupils were fully dilated with no iris color visible. Thompson began alternating between continuing to struggle and becoming non-responsive with shallow breathing and a pulse.

- L. Thompson became fully non-responsive with no breathing or detected pulse. Sgt. Jellsey and Dep. Trumm initiated CPR and continued until the arrival of fire and medical personnel. At 2:35:16 Dep. Knacke advised dispatch that Thompson had stopped breathing, no pulse was detected, and cardio pulmonary resuscitation had been started. Dispatch records show that CDF/Smartsville Chief M. Zamora arrived on scene at 2:36:31. Chief Zamora related that he and Linda Fire arrived almost simultaneously, followed several minutes later by Bi-County Ambulance. Zamora related that upon his arrival, deputies were engaged in CPR with Thompson.
- M. The fire/medical response to the scene involved three members of the Linda Fire Department, two Bi-County Ambulance employees, and Chief Zamora. All were interviewed, and related that fire personnel immediately took over CPR from the deputies. Thompson had no pulse, and was administered oxygen and epinephrine in the field. The handcuffs had been removed during medical intervention. After approximately five minutes a pulse was restored, and Thompson was then placed in the ambulance and transported to Rideout Memorial Hospital. During the transport he was intubated and CPR was reinitiated when the pulse was lost. Thompson was stabilized after arrival at the Rideout Emergency Department. Dispatch logs indicate the ambulance was enroute to Rideout at 2:52 a.m. and arrived at 3:00 a.m.
- N. Thompson was admitted at 3:01 a.m. Subsequent medical treatment and tests concluded he had suffered an anoxic ischemic event resulting in an irreversible comatose state requiring mechanical ventilation. He remained a patient until his death which was reported to be on February 20th, 2015, at 1:07 a.m.
- O. Witnesses T. Coward, M. Coward, A. Atkinson, C. Alexandra, and S. Aldridge related that they were together attending a bonfire in the goldfields area adjacent to the Western Aggregates plant. Two recalled seeing the parked Jetta as the group arrived to enter the goldfields approximately between 11:00 p.m. and midnight.

As the group drove out of the goldfields they passed the area of the rock wall and observed Mr. Thompson on it. They also observed the deputies in the area of the white car. They observed Thompson's behavior and the deputies' interaction with him. Two of the witnesses began recording the event with their cell phones when Dep. Knacke drew her Taser and placed the targeting beam on Thompson. These videos eventually were provided to the Appeal Democrat and are referenced in paragraph F and G of this report.

The witnesses' description of Thompson's behavior is consistent with the behavior seen on both videos. All witnesses related that the deputies made multiple efforts to verbally engage with Thompson but he did not respond to their presence. The group left the area immediately after the videos end and did not

witness the events leading to the administration of CPR by the deputies. All the witnesses expressed a belief that Thompson was under the influence of a drug.

- P. Witness D. Minor is employed as a security guard and was assigned to the Western Aggregate plant on February 15th, 2015. Shortly before 2:00 a.m. he heard noise by the front gate he described as "hollering" and drove his vehicle to the location. From approximately 50 feet away he could see illuminated by his headlights the parked Jetta and Mr. Thompson on the rocks adjacent to the rock wall doing "karate kid stuff". He yelled to Thompson that he was trespassing but did not attempt any further contact with him based on his behavior. Minor believed Thompson was under the influence of a controlled substance and feared he would be violent if directly contacted. Minor requested his dispatch contact the Sheriff's office and request assistance.

Minor's initial vantage point was from inside his vehicle and behind the rock wall. He left his vehicle after the arrival of the deputies and observed their interaction with Mr. Thompson from a distance he estimated to be approximately 20 feet.

Minor related that Thompson did not react to the deputies' directives and continued walking in circles on the wall and assuming a fighting stance. Minor saw Dep. Trumm attempt to grab Thompson and Thompson jump from the wall towards the deputy. Minor saw the struggle between the deputies, the use of the Taser, Thompson's continued struggle after being handcuffed, the administration of CPR, and arrival of fire/medical.

3. Related Field Investigation and Examinations

Yuba County Superior Court search warrant No. 15-019 was issued on February 15th, 2015, at 6:36 p.m., directing the collection of a blood sample from Mr. Thompson and the search of the Volkswagen Jetta vehicle which had been on the scene.

1. Pursuant to the warrant, a blood draw from Mr. Thompson was completed by Rideout Hospital medical staff on February 15th, 2015, at 7:45 p.m. and later booked into evidence.
2. On February 17th, 2015, the Volkswagen Jetta was searched. The vehicle had been towed from the Western Aggregates location and was searched at the tow facility. Four empty beer bottles and two empty alcoholic beverage cans were located. In addition, a backpack with paperwork with Mr. Thompson's name was located. A Samsung cell phone was located on the front passenger floorboard. A small black plastic case was located on the rear passenger floor board, which contained an unloaded syringe and a small clear plastic baggie with a white crystalline substance. The substance later screened positive for methamphetamine with a net weight of .7 grams.

3. Dep. Knacke's Taser, a model X26, was examined on February 15th, 2015, at 4:26 p.m. The model is a conducted electrical weapon which when fired deploys two probes attached to the device with conductive wires. The device discharges electricity to the probes using a 5 second cycle. The device is capable providing multiple discharge cycles.

The model X26 maintains internal data showing usage which was downloaded. During the download it was noted that there was a difference of 19:05 minutes between the recorded time of use and the actual time of day. A summary of the discharge and cycling is as follows, including the internal time and the corrected time:

	Time per Taser	Actual Time	Duration	Time between cycling
1	02:36:00	02:16:55	5 sec	--
2	02:36:07	02:17:02	5 sec	:02 seconds
3	02:36:28	02:17:23	5 sec	:16 seconds
4	02:36:45	02:17:40	5 sec	:12 seconds
5	02:36:53	02:17:48	5 sec	:03 seconds
6	02:37:04	02:17:59	5 sec	:06 seconds
7	02:39:44	02:20:39	5 sec	2:35 minutes

Dep. Trumm's Taser was examined and had no record of being fired during the event.

Yuba County Sheriff' Office records show that Dep. Knacke has previously qualified to use the Taser model X26. Her last qualification of record, which included practical and written testing, was on April 2nd, 2014.

4. Related Forensic Investigation and Analysis

Autopsy

An autopsy consisting of both an external and internal examination was conducted on February 20th, 2015, by forensic pathologist Donald Henrikson, M.D. His observations and conclusions are contained in a 10 page report.

Thompson was noted to be 35 years of age, standing 5'10" and weighing 202 pounds. The pathologic diagnoses included external findings of multi-focal and minor blunt force trauma consisting of scattered scratch-like and brush-type abrasions. These abrasions were noted on Mr. Thompson's forehead, nose, cheek, lip, and chin. Similar abrasions were noted on the knee, shin, lower leg, and upper arms. Marks consistent with the impact site of Taser probes were also noted.

The pathologic diagnoses included a primary internal finding of hypoxic

encephalopathy based on an examination of the brain. No epidural or subdural hematomas were observed. The primary finding was associated with “cardiopulmonary arrest after a violent struggle and hospitalization in comatose state for about 5 days”.

The pathologic diagnoses also noted “acute ethanol and methamphetamine intoxication” based on both premortem hospital blood screens and postmortem analysis of premortem hospital blood.

The cause of death was found to be hypoxic encephalopathy due to cardiopulmonary arrest after a violent struggle.

Toxicology

The premortem hospital blood was drawn from Mr. Thompson by Rideout Hospital medical staff on February 15th, 2015, at 7:45 p.m. and was submitted to National Medical Services, Inc. for toxicology analysis.

The lab reported positive findings for 5 therapeutic drugs associated with the medical treatment of Mr. Thompson while in hospital. A positive finding was also made for cotinine, which is a metabolite of nicotine (tobacco use). Positive findings were also made for the presence of amphetamine and methamphetamine using liquid chromatography tandem mass spectrometry analysis.

Amphetamine, which is a metabolite of methamphetamine, was detected at 60 ng/ml.

Methamphetamine was detected at 390 ng/ml. The NMS lab report states that methamphetamine is a stimulant capable of causing hallucinations, aggressive behavior and irrational reactions. The report also states that:

“Blood levels of 200-600 ng/ml have been reported in methamphetamine abusers who exhibited violent and irrational behavior. High doses of methamphetamine can also elicit restlessness, confusion, hallucinations, circulatory collapse and convulsions.”

5. Related Information

A review was conducted of Mr. Thompson’s criminal and recent social history sourced from state criminal history information, a pre-sentence report in Yuba County Superior Court case CRF13-0260 dated August 30, 2013, and witness interviews.

Mr. Thompson’s criminal history begins in March of 1999. He had suffered 5 felony convictions, including one residential burglary (a strike offense) in 2006 and one

assault with a deadly weapon conviction in June of 2013 (a strike offense). Mr. Thompson had also suffered 8 misdemeanor convictions, three of which involved controlled substance use or possession. His supervision history included two parole violations and 9 violations of post release community supervision. He was on PRCS at the time of the February 15th event.

Mr. Thompson stated in his pre-sentence report that he began using methamphetamine at the age of 14 or 15, and used approximately \$20 worth of the drug daily, primarily by intravenous injection. He had previously attended but not completed two residential drug treatment programs in 2012 and 2013 prior to his last imprisonment in September of 2013 on the felony assault case.

After his release from State's Prison, Mr. Thompson successfully completed a 90 day treatment program in February of 2015 at Hope, Help, and Healing located in Auburn, California. Thompson then transferred into the program's sober living outpatient housing and was living there at the time of this event.

The program director worked directly with Thompson and was very complimentary towards his progress. He had recently completed a resume, obtained a car registered to him and the necessary auto insurance, and had a job interview – all seen as significant steps for persons with significant incarceration histories.

The program director last saw Mr. Thompson on February 13th, 2015, for a counseling meeting. Thompson had a doctor's appointment later in the afternoon and planned to attend a recovery meeting after that. The director did not see or hear from Thompson after that, and made several attempts to reach him by cell phone. On the morning of February 14th, the director was informed by the sober living house manager that Thompson never returned to the house.

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED USE OF FORCE CASES

Possible criminal charges against an officer involved in a fatal use of force event include murder [Penal Code Section 187]; voluntary manslaughter [Penal Code Section 192(a)]; assault with a deadly weapon [Penal Code Section 245]; and assault by a police officer [Penal Code Section 149].

In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a reasonable doubt that no legal justifications existed for the officer's actions. Several such justifications may apply in any given case and they are set forth in Penal Code Sections 196, 197 and 835a.

- California Penal Code Section 196 provides that use of deadly force by a public officer is justifiable when necessarily used "in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty."

- California Penal Code Section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

In doing so, such person may immediately use all force and means which he believes to be reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to defend against that danger and to prevent the injury which appears to be imminent. The person's right of self-defense is the same whether the danger is real or merely apparent. *People v. Jackson* (1965) 233 Cal.App.2d 639, 641-642.

- California Penal Code Section 835a allows any police officer who has reasonable cause to believe that a person to be arrested has committed a public offense to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. The section further provides that a police 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 his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

In relation to an officer's use of force pursuant to Penal Code 835a, California appellate courts have noted that " 'Unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because "the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it." [Citation.]' " *Brown v. Ransweiler* (2009) 171 CA4th 516, at 527

The right to make an arrest without a warrant is based on probable cause. A police officer has probable cause to arrest a suspect without a warrant if the available facts suggest a "fair probability" that the suspect has committed a crime. *Tatum v. City and County of San Francisco*, 441 F.3d 1090, 1094 (9th Cir.2006) (citing *United States v. Valencia-Amezcu*, 278 F.3d 901, 906 (9th Cir.2002)). "An officer who observes criminal conduct may arrest the offender without a warrant, even if the pertinent offense carries only a minor penalty." *Tatum*, 441 F.3d at 1094 (quoting *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001) to the effect that "[i]f an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.>").

Nevertheless, the above justifications must be interpreted in light of United States Supreme Court precedent that addresses the right of a police officer to use deadly force. *People v. Martin* (1985) 168 Cal. App. 3d 1111, 1124.

In particular, in *Tennessee v. Garner* (1985) 471 U.S. 1 and *Graham v. Conner* (1989) 490 U.S. 386 the United States Supreme Court explained that that an officer's right to use force is to be analyzed under the Fourth Amendment's "objective reasonableness" standard.

Graham stated that the reasonableness of a particular use of force must be analyzed from the perspective "of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* at 396. The Court further cautioned that the determination must "allo[w] for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and evolving." *Id.* at 397.

In May of 2014, the Supreme Court reaffirmed these principles in *Plumhoff v. Rickard* (2014) --- S.Ct. ---; 188 L.Ed. 2d 1056.

LEGAL ANALYSIS

In order for either Deputy Knacke or Deputy Trumm to be justly and lawfully charged and convicted of a crime in this incident, it is the prosecution's burden to prove beyond a reasonable doubt that either deputy did not act in the performance of their duties and that the use of a Taser was not excessive or unreasonably dangerous relative to the danger Thompson's actions posed.

The prosecution would be unable to carry that burden in this case. A jury analyzing these facts would conclude that both Deputy Knacke and Deputy Trumm were acting in the discharge of their legal duties and their actions when first contacting Mr. Thompson were reasonable. A jury would similarly conclude that the use of both physical force and the Taser was reasonable in view of the exigency and escalation of the situation.

These issues will now be discussed in turn.

The undisputed facts show that there was probable cause to arrest Mr. Thompson. Thompson's behavior and appearance created "a fair probability" that he had committed a crime. He had no apparent business at 2:00 a.m. at the Western Aggregates location; he was pacing on the rock wall while "karate kicking" and holding his balled fists in a fighting stance; he was totally unresponsive to the verbal inquiries and commands of the deputies; his speech was largely unintelligible; and he was shirtless and perspiring heavily. All parties viewing Mr. Thompson's behavior – both civilian and law enforcement - concluded that he was under the influence of a drug.

Consequently, there was a "fair probability" he was under the influence of a controlled substance, a crime under Health and Safety Code section 11550 and Penal Code section 647f. In addition, Thompson had been asked to leave the Western Aggregate property by security guard Minor and his failure to do so would constitute a trespass

under Penal Code section 602. Viewed objectively, the facts available to both deputies established probable cause to arrest Mr. Thompson.

Deputy Trumm's action to remove Thompson from the wall was lawful and reasonable in light of the facts and circumstances confronting the deputies. His need to make physical contact is clear and not in dispute given Thompson's failure to respond to the deputies. It is also not in dispute that Thompson immediately resisted Deputy Trumm, as shown on the videos discussed in Paragraphs F and G. Faced with a potentially violent individual, behaving erratically and now fully resisting Deputy Trumm, it was objectively reasonable for Deputy Knacke to use her Taser in response to the escalating situation.

The reviewed information also establishes that Mr. Thompson continued to struggle, buck and kick throughout both deputies' efforts to secure him in handcuffs. Deputy Knacke's repeated cycling of the Taser was in response to the need to incapacitate Thompson, both to protect her partner and herself, and to protect Thompson.

As stated in *Brown v. Ransweiler*, cited previously, at page 537:

"It is important to note the law has never been applied to suggest that there is only one reasonable action that an officer may take under a given set of circumstances. There will virtually always be a *range* of conduct that is reasonable. As long as an officer's conduct falls within the range of conduct that is reasonable under the circumstances, there is no requirement that he or she choose the "most reasonable" action or the conduct that is the least likely to cause harm and at the same time the most likely to result in the successful apprehension of a violent suspect [...] It would be unreasonable to require police officers in the field to engage in the sort of complex calculus that would be necessary to determine the "best" or most effective and least dangerous method of handling an immediate and dangerous situation, particularly when officers are forced to make split-second decisions under tense and often perilous conditions."

Finally, the information reviewed demonstrates that the deputies used objectively reasonable care in monitoring Mr. Thompson's condition during the efforts to secure him. Sgt. Jellsey requested a medical response after Knacke reported to dispatch that a Taser had been used and before his arrival on scene. Both Deputy Knacke and Trumm noted Thompson's apparent breathing distress and changed his position in response. The use of the Taser was discontinued. CPR was initiated and medical assistance was provided at the location by both fire and paramedic personnel. The level of methamphetamine in Mr. Thompson's blood, as measured from a blood sample taken over 17 hours after the event, was extremely elevated and consistent with amounts associated with circulatory collapse.


CONCLUSION

Based upon a review of all of the evidence provided to this Office, and based on the entirety of the facts contained in all the available reports and interviews I have reviewed, and pursuant to the applicable legal principles, it is my legal opinion that there is no evidence of criminal culpability on the part of either Deputy Knacke or Deputy Trumm in the death of Mr. Thompson.

There is substantial evidence that the officer's actions in these rapidly changing circumstances met the standard of a reasonably prudent law enforcement officer, and the use of a Taser was an objectively reasonable use of force under the law pursuant to Penal Code sections 196, 197, and 835a.

Accordingly, the Yuba County District Attorney's Office is closing its inquiry into this incident and no further action is contemplated.

DATED: 8/18/15



Patrick McGrath
District Attorney

Attachments

Cc: DA memo file

WA WESTERN
AGGREGATES
4711
← HAMMONTON ROAD







