

**OFFICE OF THE
LAKE COUNTY DISTRICT ATTORNEY**

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**LAKE COUNTY DISTRICT ATTORNEY'S FINAL REPORT
REGARDING OFFICER INVOLVED SHOOTING OF
CRAIG ELLIS SEE**

INTRODUCTION:

On December 28, 2019, Lake County Sheriff Deputy Wesley Besgrove was patrolling the area of Clearlake Oaks in a fully marked patrol vehicle and in full uniform. Deputy Besgrove contacted Craig See for bicycle lighting violations in front of the Dollar General. While talking to See, Deputy Besgrove saw that See had a concealed knife on his person. See took off running into a nearby creek bed next to the Dollar General. Deputy Besgrove caught up to See and attempted to take See into custody. See resisted arrest by biting and head butting Deputy Besgrove. See attempted to stab Deputy Besgrove with a knife and attempted to remove the Deputy's firearm from the holster. Deputy Besgrove was able to retrieve his firearm and shot See in defense of his own life. See died at the scene as a result of gunshot wounds.

It is the finding of this office that the killing of Craig See was justifiable homicide pursuant to California Penal Code Sections 196 and 197. (see Fn. 1)

PROCEDURES:

Pursuant to the Lake County Law Enforcement Fatal Incident Protocol of 2019, The Lake County District Attorney Investigation Division conducted an independent investigation into the incident. Also, an internal investigation was conducted by the administration of the Lake County Sheriff's Office.

The purpose of the District Attorney's investigation is to determine the facts of the incident, whether any crime has been committed and whether or not criminal charges should be filed against any individual involved.

Fn 1 This incident occurred prior to California Assembly Bill 392's amendments to Penal Code sections 196 and 835a. Therefore, this incident is analyzed under the law as it existed at the time of the events.

This report and findings are conducted pursuant to California State Law and the Lake County Law Enforcement Fatal Incident Protocol of 2019. Any findings by the District Attorney is for the sole purpose of criminal charging, using a “beyond a reasonable doubt” burden of proof standard.

FACTS:

At the time of his death Craig See was 34 years old with a last known address in Clearlake Oaks, CA. See had an outstanding Lake County warrant for charges of stalking, elder abuse, willful cruelty to a child and trespass. Charges for assault with a firearm, felon in possession of a firearm and willful discharge of a firearm from an incident on December 13, 2019 were under review at the District Attorney’s Office.

His criminal history includes the following convictions from California and other states.

- Domestic Violence - misdemeanor
- Aggravated Robbery - Felony
- Resisting a police officer - misdemeanor
- Criminal trespass - misdemeanor
- Aggravated battery – misdemeanor

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According to Deputy Besgrove, on December 28, 2019, he was on patrol in the area of Clearlake Oaks in a fully marked patrol vehicle and in full uniform. At approximately 9:50 pm Deputy Besgrove saw a male riding a bicycle in the east bound lane on Highway 20. The subject had a dim light on his head but no light on the bicycle. Deputy Besgrove turned his patrol vehicle around and saw the subject ride his bicycle into the turn lane and then into the parking lot of the Dollar General on Highway 20.

Deputy Besgrove pulled his patrol vehicle into the parking lot and contacted the bicycle rider, later identified as Craig See. See had gotten off of the bicycle when Deputy Besgrove contacted him. Deputy Besgrove informed See that he was contacting him because of the lighting violation. Besgrove asked if See had any identification and See patted his pockets and said he did not have ID. See said his name was Christopher Frederick. See denied he was on parole or probation. See asked if he could go get a pack of cigarettes and Besgrove told him not right now. During this time See was moving his arms in a way that uncovered the bottom of a knife sheath attached to See’s waist band. Besgrove saw this and thought that See could be in violation of possession of a concealed dirk or dagger.

Deputy Besgrove said to See “do me a favor man, turn around put your hands on your head.” Besgrove wanted to remove the knife safely. See started to turn around but then ran away toward the nearby creek bed. Besgrove reported on the radio that he is in foot pursuit and ran

after See. Deputy Besgrove ordered See to stop several times but See did not stop. While running after See in the area of the creek bed, Deputy Besgrove jumped into the creek and felt a pop in his knee and sudden pain. Despite this, Deputy Besgrove continued his pursuit of See who was on the other side of the creek. While running in the creek bed area, Deputy Besgrove heard something fall but did not realize it was the body cam he was wearing. The body cam was later located by District Attorney Investigators in the creek bed approximately 35 feet away from where See's body was located. The recovered body cam shows footage of the initial contact with See and continued to record after it fell on the ground. However, since the body cam fell during the pursuit, only the audio portion is available due to the darkness and the angle of the camera.

Deputy Besgrove was able to get to the other side of the creek bed. It was difficult to see because there was very little light in the area. Besgrove was able to grab See's ankle and pull him down the hill. He believed See still had the knife and so attempted to maneuver See in order to handcuff him. At this time See grabbed onto Besgrove's arm. Besgrove told See to let go of his arm or he would hit him. At that time, See became more aggressive. See continued to grab at Deputy Besgrove and move to where they were now face to face. Besgrove tried to pick See up and place him on the ground on his stomach. See continued to fight and Besgrove felt See biting him on his left arm. Photos of Deputy Besgrove taken after this altercation show a bite mark on his left arm. At this time, Deputy Besgrove realized that he was becoming fatigued. Besgrove first tried to reach for his Taser but felt that pepper spray may be more effective. He was able to retrieve his pepper spray from his utility belt and spray See in the face with a one second burst. He heard See say "Okay, I'm done" but See did not stop fighting. Deputy Besgrove tried to pepper spray See a second time but See put his hand up and the spray deflected into Deputy Besgrove's face and eyes.

At this point, Deputy Besgrove was not able to open his left eye and he felt pressure on his right eye caused by See grabbing at him. Deputy Besgrove tried to punch See but did not make contact. Both of them started sliding down the hill as they were wrestling. At one point See was above him and head butted Deputy Besgrove twice in the head. The second head butt was strong and Besgrove was concerned he would lose consciousness. Then, Besgrove saw See's right hand come out with a knife in his hand. He tried to grab See's wrist and told See to drop the knife. See said he would not drop the knife. See was actually pushing down with the knife trying to stab Besgrove. In an attempt to stop See, Besgrove grabbed the knife blade and placed his other hand on See's arm that was holding the knife. Deputy Besgrove felt pressure on the right side of his duty belt near his firearm. Deputy Besgrove attempted to grab his gun and felt See's hand on his gun. Besgrove believed at that point that See was going to kill him. The struggle continued and Besgrove was finally able to get See's hand off of his gun. Besgrove drew his gun and put it in See's side and fired 3 shots. See yelled and his arms came up pulling the knife from Deputy Besgrove's hand. He believed See was going to stab him with the knife so Deputy Besgrove shot 2 more rounds at See. On the body cam recording three gun shots can be heard, then a short pause followed by the sound of 2 more gun shots.

See appeared to be trying to get up. Deputy Besgrove ordered See to lay down and put his arms out to his sides. At this time Besgrove did not know if any of the bullets had hit See. He continued to tell See to stay down. Besgrove was able to stand up and called into his radio

“shot’s fired, suspect down.” A few seconds later Besgrove reports “suspect hit, down at gunpoint and then “start medical”.

Deputy Matt McCabe was the first to arrive on scene. Deputy Besgrove told McCabe that he shot See. Neither knew at the time the extent of See’s injuries but knew that they should handcuff See so that medical aid could be rendered safely. More units arrived at the scene along with paramedics. See was pronounced dead at the scene.

Deputy Besgrove was transported to Adventist Health Hospital in Clearlake. Deputy Besgrove had cuts on his left hand, contusions to his forehead, eyes and face, bite marks and bruising on his left arm. He also had an injury to his right knee.

INVESTIGATION:

The investigation was conducted by the District Attorney’s Office Bureau of Investigations. Division. The Lead Investigator was Scott Poma. The investigation included an inspection of the scene at Dollar General and the creek bed where the shooting took place. Investigators located 3 expended 9mm bullet cartridges, a knife with a 3 inch blade and a standard issued pepper spray canister. An examination of Deputy Besgrove’s firearm, a Glock 9mm semi-automatic pistol, showed that 5 rounds had been fired. Despite the use of a metal detector, the 2 remaining cartridges were not able to be located. Deputy Besgrove’s body cam was located in the creek bed about 35 feet away from where the deceased was located. It had continued to record but only sound can be heard.

See was wearing a blue/grey jacket and a black hooded sweatshirt with a hood. See was also wearing a blue flannel shirt and blue jeans. He had a brown belt and attached to that was a brown leather knife sheath for a fix blade knife. Located near See’s body was a pair of glass frames with no lenses. When first contacted, See had on the frames but there were no lenses at that time either.

An autopsy was conducted on January 3, 2020 by Dr. Bennet Omalu. The cause of death was determined to be 5 gunshot wounds to the trunk of See’s body. See also had methamphetamine in his system.

LEGAL ANALYSIS:

The relevant California statutory and case law regarding this matter is set forth below.

Penal Code Section 196 states in part:

Homicide is justifiable when committed by public officers:

(2) When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.

Penal Code Section 197 states in part:

Homicide is also justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.

The test for whether homicide was justifiable is “whether the circumstances ‘reasonably create[d] a fear of death or serious bodily harm to the officer or to another.’” **Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.**

In **People v. Escobar (1992) 3 Cal.4th 740, 750** the court held that “It is well settled that the determination of great bodily injury is essentially a question of fact, not of law.” In **Munoz v. City of Union City (2004) 120 Cal.App.4th 1077, 1109** the court held 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.” It continues “The question is whether a peace officer’s actions were objectively reasonable based on the facts and circumstances confronting the peace officer.” “The test is highly deferential to the police officer’s need to protect himself and others.” **Munoz p. 1102.**

A peace officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to detain or arrest the person, to prevent the person’s escape, or to overcome the person’s resistance. (California Penal Code section 835a; CALCRIM 2670.) An officer who detains or arrests a person does not need to retreat or stop his or her efforts if the person resists or threatens resistance. Moreover, using reasonable force does not make the officer an aggressor or cause him or her to lose the right to self-defense. (California Penal Code section 835a.) The person being detained or arrested has a duty to permit himself or herself to be detained, and the person must refrain from using force or any weapon to resist arrest. **People v. Allen (1980) 109 Cal.App.3d 981, 985; California Penal Code section 834a; CALCRIM 2670, 2671, 2672**

California law permits the use of deadly force in one’s self defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he or another was in imminent danger of great bodily injury or death. **People v. Williams (1977) 75 Cal.App.3d 731.**

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. **Graham v. Connor (1989) 490 U.S. 386**

In the instant case, Deputy Besgrove contacted See due to a traffic violation regarding lack of required lighting while riding his bicycle. Once contacted, See gave a false name and Deputy Besgrove saw See possessed a concealed knife. When Deputy Besgrove requested See to turn


around so he could determine whether or not See possessed an illegal knife, See ran. Deputy Besgrove ran after him. Besgrove injured his leg but kept running after See. Once he was able to contact See, See fought with Besgrove, head butted him, pulled a knife on him and attempted to grab Besgrove's gun. Deputy Besgrove gave See repeated commands to stop fighting then repeated commands to drop the knife. Besgrove used less lethal ways to stop See from fighting. See continued to fight with Besgrove even after he was pepper sprayed. See pulled out his knife in order to stab Besgrove. Besgrove gave him repeated commands to stop but See continued to fight. Deputy Besgrove reasonably believed that his life was in danger and believed that See would kill him unless he shot him. Besgrove reasonably believed that if he did not shoot See that See would have killed him. As stated above, California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 505, 507, 3470.) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. **People v. Toledo (1948) 85 Cal.App.2d 577**

FINDINGS:

There is overwhelming evidence that Deputy Besgrove's actions meet the standard of a reasonably prudent law enforcement officer and the discharge of his firearm was an objectively reasonable use of force under both California statutory law and State and federal case law.

It is my opinion that there is no evidence of criminal culpability on the part of Deputy Besgrove in the death of Mr. See.

Dated: September 14, 2020



SUSAN KRONES
District Attorney