

# INTEROFFICE MEMORANDUM



**DATE:** June 5, 2014

**FROM:** **Kyung Kim**  
Deputy District Attorney  
Valley Division

**TO:** **Richard A. Young**  
Supervising Deputy District Attorney  
Valley Division

**Clark A. Hansen III**  
Chief Deputy District Attorney  
Valley Division

**Gary Roth**  
Assistant District Attorney  
Criminal Operations

---

**SUBJECT: Officer Involved Shooting Non-Fatal**

**Investigating Agency:** San Bernardino Sheriff's Department, Specialized Investigations (Homicide) Division

**Involved Officer:** Deputy Aaron Rodriguez, San Bernardino Sheriff's Department, Fontana Station

**Injured Party:** Defendant Chad Bryan Johnson, resident of Fontana

**Date of Incident:** June 18, 2013

**Location of Incident:** Beech Avenue, Fontana

**DA STAR #** 2013-00-49422

**Case Agent:** Detective Robert Trostle

**Sheriff's Report #** 031302362, H # 2013-054

**Related criminal case against Johnson:** FVA1301100

---

## **FACTUAL OVERVIEW**

On June 18, 2013, at about 11:25 p.m., Deputy Aaron Rodriguez observed a White Mercury Tracer, driven by Chad Johnson, fail to stop at a stop sign. Deputy Rodriguez conducted a traffic stop and contacted Johnson. Johnson indicated he was on active parole. Deputy Rodriguez had Johnson exit the vehicle and stand at the rear of the vehicle in order to conduct a pat down search, pursuant to standard parole terms. During the search Deputy Rodriguez located what he thought was a gun in the front of Johnson's pants. Johnson confirmed he had a gun. During the search, Johnson pushed off the vehicle towards Deputy Rodriguez and turned to his left, and lowered his hands to his waistband. In fear for his life, Rodriguez fired once striking Johnson, causing him to fall to the ground. An unloaded .22 caliber pistol was found inside Johnson's pants.

On June 21, 2013, in case number FVA1301100, Chad Johnson was charged with one count of PC29800(a)- Possession of a Firearm by a Felon and one count of PC69- Resisting an Executive Officer.

## **PRINCIPAL INVOLVED PARTIES**

**Chad Bryan Johnson**, DOB 11/12/1988, of Fontana, California was the person shot during the incident under review.

**Deputy Aaron Rodriguez** of the San Bernardino County Sheriff's Department was the officer involved in the shooting of Chad Johnson.

## **SCENE**

This incident occurred on June 18, 2013 at about 11:25 p.m. Location of the occurrence was on the street in front of 9350 Beech Avenue in the city of Fontana, California.

## **RELATED CASE**

Chad Johnson was charged with two felony charges as a result of this incident in Fontana Case number FVA1301100.

Johnson was charged with one count of PC29800(a)- Possession of a Firearm by a Felon and one count of PC69- Resisting an Executive Officer.

It was alleged as to both counts, Johnson suffered a strike conviction under 1170.12(a) through (d) and 667(b) through (i) of the Penal Code. It was also alleged Johnson served a three separate prison terms under 667.5(b) of the Penal Code.

## **FACTUAL SUMMARY**

**NOTE:** This was an officer involved shooting by a deputy assigned to the Fontana station of the San Bernardino County Sheriff's Department and was investigated by the San Bernardino County Sheriff's Department, Specialized Investigations (Homicide) Division. This factual summary is based on a thorough review of all the investigative reports submitted by the San Bernardino County Sheriff's Department case number H# 2013-054 and 031302362.

On June 19, 2013, at about 3:50 a.m., **Deputy Aaron Rodriguez** of the San Bernardino County Sheriff's Department was interviewed by Detectives Steven Pennington and Joseph Steers of the San Bernardino County Sheriff's Department. The following is a summary of that interview.

Deputy Rodriguez indicated he was on patrol starting at about 8:00 p.m. on June 18, 2013. At about 11:25 p.m., while driving southbound on Beech approaching Athol, Rodriguez noticed a small compact vehicle coming up to the stop sign. Rodriguez noticed the vehicle was coming up to the stop sign fast and believed the vehicle was not going to stop. Rodriguez hit his brakes to avoid hitting the vehicle. The vehicle ran the stop sign and stopped right in front of Rodriguez. The vehicle then turned south on Beech and sped off. The vehicle sped up to 45 M.P.H. in a 25 M.P.H. zone. Rodriguez conducted a traffic stop. The vehicle continued on Beech past Randall before yielding.

Rodriguez made contact with the driver of the vehicle, Chad Johnson. Rodriguez saw the driver had numerous tattoos and asked him if he was on parole. Johnson said, "Yes." Rodriguez told Johnson he was going to conduct a parole compliance check and asked Johnson to step out of the vehicle.

Rodriguez had Johnson step to the rear of the vehicle. Rodriguez directed Johnson to put his hands on the trunk. Johnson did not comply. Rodriguez told Johnson three or four more times to put both hands on the trunk. Johnson finally put his hands on trunk. Rodriguez began to pat down Johnson and around Johnson's front waistband area, Rodriguez felt a hard object just below Johnson's waist. Rodriguez believed it was gun. Rodriguez asked Johnson what it was. Johnson said "I have a gun." Rodriguez held onto the gun and drew his service weapon and placed it on Johnson's back. Rodriguez told Johnson not to move or he would shoot him. Rodriguez told Johnson he was going to have him slowly put his hands behind his back. Instead, Johnson shoved off the trunk into Rodriguez and spun to his left. Johnson reached both of his hands down towards the front of his waistband. Rodriguez believed Johnson was going to draw his gun and shoot him. Rodriguez fearing for his safety fired one round striking Johnson in the back. Johnson fell to the ground.

After falling to the ground Johnson continued to reach towards his waistband. Rodriguez told Johnson to keep his hands above his head and not reach for the gun. Rodriguez approached and removed the gun and handcuffed Johnson. The gun was located a hand's length down the waistband near Johnson's crotch. The gun was an unloaded .22 semiautomatic pistol.

### **WITNESSES AND CORROBORATION**

On June 19, 2013, at about 11:32 p.m. **Sgt. Mark Martinez** of the San Bernardino County Sheriff's Department arrived on scene to assist Deputy Rodriguez. When Sgt. Martinez arrived, he saw a white male suspect (Johnson) lying on his back with his hands handcuffed in front of him. When Johnson saw Sgt. Martinez he called out to him and said, "Sarge, can I talk to you? I messed up." Medical personnel arrived and ultimately transported Johnson to Arrowhead Regional Medical Center.

On June 19, 2013, at about 6:00 a.m., the defendant **Chad Johnson** was interviewed by Detective Joseph Steers. The following is a summary of that interview.

Johnson indicated he was driving his mother's white Mercury Tracer on Athol Street. Johnson was armed with a small caliber handgun in his front left pants' pocket. Johnson indicated he just purchased the gun on the streets for \$80.00 and refused to tell Detective Steers who he purchased it from. Johnson indicated he approached a stop sign and failed to stop when he saw the deputy's patrol vehicle. When the patrol vehicle tried to pull him over, Johnson moved the handgun from his pocket to in between the cheeks of his buttocks. Johnson finally pulled over and was contacted by Deputy Rodriguez.

Deputy Rodriguez asked Johnson if he was on probation or parole to which Johnson responded he was on parole. Deputy Rodriguez asked Johnson to step out of his vehicle for parole compliance check. Johnson indicated that he understood this to mean he was going to be searched. Deputy Rodriguez walked to the back of the vehicle and searched Johnson. The gun at this time had fallen out of his buttocks and was resting in between his legs, held by his boxer briefs. Deputy Rodriguez discovered the gun and held onto the gun while telling Johnson to put his hands over his head. Johnson said Deputy Rodriguez told him he would shoot him if he ran or went for the gun. Johnson knew Deputy Rodriguez had the right to shoot him if he went for the gun. Johnson said he placed his hands behind his back and ran to his left to get away from Deputy Rodriguez. His plan was to discard the weapon and not be caught with it. Johnson described his motions while fleeing as his right hand toward his waistband and his left hand upward. Johnson said prior to his hand making it to his waistband he was shot.

Johnson admitted being a member of the Neighborhood Locos gang with the moniker "Little Blanco." At this point Johnson refused to answer any more questions.

On June 19, 2013, a drug screen was done Johnson at Arrowhead Regional Medical Center. The results showed a positive result of Opiates >300ng/ml and Amphetamines >1000ng/ml.

### **Injuries**

Chad Johnson had one gunshot wound. The gunshot wound was to the back and damaged his spinal cord. As of June 19, 2013 Johnson's lower extremities were paralyzed from the wound.

## **APPLICABLE LEGAL STANDARDS**

### **Crimes Upon Peace Officers**

**California Penal Code section 69** (summarized in pertinent part)

Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by a maximum fine of \$10,000, or by imprisonment in the state prison, or a maximum one year in county jail, or both such fine and imprisonment.

### **Other Crimes**

**California Penal Code section 29800(a)(1)** (Summarized in pertinent part)

Any person who has been convicted of a felony under the laws of the United States, the State of California or any other state, government or country...who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

### **Laws of Arrest**

**California Penal Code section 834a**

If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such a person to refrain from using force or any weapon to resist such arrest.

### **California Penal Code section 835**

An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subject to such restraint as is reasonable for his arrest and detention.

### **California Penal Code section 835a**

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the 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.

### **Laws of Self-Defense**

#### **CALCRIM 3470 – Self Defense**

It is lawful to use force against another person if a person reasonably believes there was imminent danger of bodily injury to himself or someone else. The person must reasonably believe that the immediate use of force was necessary to defend against that danger. That person is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation.

In deciding whether the person's beliefs were reasonable, all the circumstances as they were known to and appeared to that person should be considered 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.

#### **CALCRIM 3470 - Self-Defense / Assailed person need not retreat**

An assailed person is not required to retreat. He is entitled to stand his ground and defend himself and, if reasonably necessary, to pursue an assailant until the danger of bodily injury has passed. This is so even if safety could have been achieved by retreating.

The reasonableness of the particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with 20/20 vision of hindsight. Police officers are often forced to make quick decisions in circumstances that are tense, uncertain and rapidly evolving. Certain factors are to be considered. Such as: severity of the crime, whether the suspect poses an immediate threat to safety, and whether he is actively resisting. (*Graham v. Conner* (1989) 490 U.S. 386.)

In summary, an honest and objectively reasonable belief that lethal force is necessary to avoid what appears to be an imminent threat of death or great bodily injury will justify a homicide. This is true even if the person acting in self-defense could have safely withdrawn or had available to him a less lethal means of defense.

### **ANALYSIS**

In this case, a shooting occurred on the street in front of 9350 Beech Avenue in the City of Fontana. Deputy Aaron Rodriguez observed a White Mercury Tracer, driven by Chad Johnson, fail to stop at a stop sign. Deputy Rodriguez conducted a traffic stop and contacted Johnson. Johnson indicated he was on active parole and a parole compliance search was done. During the search Deputy Rodriguez located what he thought was a gun in the front of Johnson's pants. Johnson confirmed he had a gun. During the search, Johnson pushed off the vehicle towards Deputy Rodriguez and turned to his left, and lowered his hands to his waistband. In fear for his life, Rodriguez fired once striking Johnson, causing him to fall to the ground. An unloaded .22 caliber pistol was found inside Johnson's pants.

### **CONCLUSION**

The shooting of Chad Johnson by Deputy Rodriguez was, under the facts and circumstances presented here, a proper exercise of Deputy Rodriguez's right of self-defense and therefore was legally justified.

---

**Kyung Kim**  
Deputy District Attorney  
Valley Division

---

**Richard A. Young**  
Supervising Deputy District Attorney  
Valley Division

---

**Clark Hansen**  
Chief Deputy District Attorney  
Valley Division

---

**Gary Roth**  
Assistant District Attorney  
Criminal Operations