Commission on Peace Officer Standards and Training
Peace Officer Standards Accountability Division
860 Stillwater Road, Suite 100
West Sacramento, CA 95605
www.post.ca.gov

NOTICE OF DETERMINATION

CASE NO.: POST2308329

SUBJECT OFFICER: Kevin Pedersen **POST ID:** C29-Z54

EMPLOYING AGENCY: Anaheim Police Department

ALLEGED MISCONDUCT: PC 13510.8 (b)(3)/11 CCR 1205(a)(3)

EXECUTIVE SUMMARY:

On July 21, 2018, Anaheim Police Officer Kevin Pedersen, hereafter Respondent, and his partner, hereafter "PARTNER", were working as a two-officer unit. Respondent was driving the patrol vehicle while PARTNER was the passenger. Respondent and PARTNER were dispatched to a second-hand report of a possible armed subject, hereafter VICTIM, who was under the influence of drugs, hallucinating, and was reportedly armed with a knife and gun. Respondent and PARTNER arrived at the call for service and attempted to contact VICTIM who was departing in a vehicle. VICTIM fled from officers and a short pursuit ensued. While pursuing the vehicle, VICTIM displayed what appeared to be a handgun and pointed it at Respondent and PARTNER. During the pursuit, Respondent fired his handgun thirty-one (31) times at VICTIM, primarily through the front windshield of their moving patrol vehicle and PARTNER fired his rifle two (2) times.

At the termination point of the pursuit, which is the focus of POST's investigative summary and findings, Respondent fired his handgun an additional thirty-four (34) times at VICTIM. VICTIM suffered from multiple gunshot wounds to his head and upper body and was pronounced deceased shortly after the conclusion of the incident. Based on the investigation, the 'handgun' displayed by VICTIM was determined to be a CO_2 powered air-pistol.

Respondent was released from his probationary status with the Anaheim Police Department on October 3, 2018, prior to the completion of the administrative investigation. On July 12, 2019, the Anaheim Police Department sustained the allegation that the force used by Respondent was excessive/unreasonable. The Orange County District Attorney's Office determined there was a lack of sufficient evidence to show, beyond a reasonable doubt, criminal culpability on the part of Respondent and PARTNER, and no charges were filed against the officers. The City of Anaheim agreed to a $2.9 million settlement with VICTIM's family in a wrongful death lawsuit.

Based on POST's investigation, which included a review of the video evidence in conjunction with witness', PARTNER's and Respondent's statements and POST's consultation with a use of force expert, clear and convincing evidence exists that Respondent used excessive and unreasonable force in violation of California Penal Code Section 13510.8 (b)(3) and POST

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regulation 11 CCR Section 1205 (a)(3). Here, the evidence showed Respondent fired thirty-four (34) rounds from his handgun at VICTIM after failing to provide VICTIM with the opportunity to surrender and while no visible threat was observed. Stated another way, the evidence showed that there was no imminent threat at the time Respondent fired the final thirty-four (34) rounds.

ANALYSIS/FINDINGS:

1. **The alleged misconduct violated Penal Code Section 13510.8 (b)(3) and Title 11, California Code of Regulations Section 1205 (a)(3) – Physical Abuse**

Penal Code Section 13510.8 (b)(3) and Commission Regulation Section 1205 (a)(3) define the serious misconduct as "Physical Abuse including, but not limited to, the excessive or unreasonable use of force."

During the initial phase of the pursuit, VICTIM reportedly pointed a suspected firearm at Respondent and PARTNER. Although the officers believed VICTIM had a firearm and pointed it at the officers as if he intended to fire, the only pistol ultimately recovered at the scene was a CO_2 air pistol, which resembled a handgun. Respondent responded to VICTIM's threat of displaying the suspected firearm by employing deadly force and firing his handgun at VICTIM.

At the conclusion of the pursuit, however, VICTIM never displayed the suspected firearm, and the VICTIM never exited the vehicle. Respondent indicated he believed VICTIM had been injured at that time. Respondent exited his vehicle without issuing any commands or reassessing the situation, and immediately proceeded to fire thirty-four (34) rounds and advance on VICTIM in his vehicle. Respondent's statement of his perceived threat, based on VICTIM's prior actions, and without reassessing VICTIM's intent, issuing any commands, or providing VICTIM with the opportunity to surrender was objectively excessive and unreasonable, and did not justify Respondent's decision to immediately fire thirty-four (34) rounds. Respondent's actions were neither proportionate nor consistent with industry standards and training. Respondent's excessive and unreasonable actions ultimately resulted in the death of VICTIM.

FINDINGS

The Peace Officer Standards Accountability Division reviewed the totality of the circumstances and determined that reasonable grounds exist to seek revocation, rather than suspension of the Respondent's certification in this case due to the Respondent's excessive and unreasonable use of force, which resulted in the death of VICTIM.