

CITY AND COUNTY OF SAN FRANCISCO OFFICE OF THE DISTRICT ATTORNEY



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January 29, 2016

Chief Gregory Suhr
Office of the Chief of Police
San Francisco Police Department
Mission Bay
1245 3rd Street, 6th Floor
San Francisco, CA 94158-2134

Re: Officer Involved Shooting on February 4, 2014 (Report No. 140102796)

Dear Chief Suhr:

The San Francisco District Attorney's Office has completed its review of the February 4, 2014 shooting on 3rd Street near 20th Street involving San Francisco Police Officer Brandon Thompson (Star #153). We have concluded that Officer Thompson was acting lawfully in self-defense and in defense of others when he discharged his weapon. Our review did not examine such issues as compliance with the policies and procedures of the law enforcement agency, ways to improve training or tactics, or any issues related to civil liability; accordingly, our review should not be interpreted as expressing an opinion on these matters.

FACTUAL SUMMARY

According to the investigation, on February 4, 2014, Officer Brent Cader (Star # 704) and Officer Brandon Thompson (Star # 153) were in uniform and riding in a fully marked SFPD patrol car with Officer Cader driving, when they saw a stolen black Saab with a solo occupant, later identified as Ramone Wellington, driving in the Potrero Hill neighborhood. When the officers attempted to stop the stolen vehicle, Wellington failed to yield and the officers initiated a pursuit. The officers terminated the pursuit for safety reasons as Wellington fled at a high rate of speed, reaching approximately 80 miles per hour on city streets. The officers continued to travel in the same direction as the Saab, northbound on 3rd Street, and saw it strike several vehicles stopped for a traffic light on northbound 3rd Street, at 20th Street. Officer Cader stopped the patrol vehicle approximately eight feet behind the Saab, which was trapped behind vehicles awaiting a green light. Both officers were familiar with the area and knew it to be highly populated, especially during the lunch hour. They exited their patrol vehicle to perform a felony stop, drew their guns, and yelled orders for Wellington to exit the Saab.

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According to Officer Cader, instead of complying with their orders, Wellington backed the Saab toward him and Officer Thompson, raised his hands and said "Don't shoot, don't shoot," and then backed up again. Officer Cader said he was about five feet from the Saab and had to move out the way as it maneuvered to within about two feet of him a couple times. Officer Cader said he feared the vehicle would hit him and he feared for his safety. Officer Cader heard Officer Thompson fire approximately two shots and saw the vehicle's wheels turn and accelerate forward.

According to Officer Thompson, the Saab was reversing as they stopped their patrol vehicle and it pulled forward again, striking the cars in front of it. Officer Thompson said as he and Officer Cader exited their vehicle and approached the Saab from behind, Officer Cader went to the left and Officer Thompson went to the right as the Saab backed up towards them. Officer Thompson said that Wellington was yelling something at them, that he had to jump out the way of the Saab at least once, and that he saw the Saab back towards Officer Cader, forcing Officer Cader to move away. Officer Thompson said he saw the Saab move back and forth, ramming the cars in front of him and back towards Officer Cader. Officer Thompson said he feared for his own safety, feared Wellington would hit Officer Cader, and also feared Wellington would injure or kill a civilian, so he fired his duty weapon at Wellington to stop him. Wellington continued driving forward and fled the scene northbound on 3rd Street. Officer Cader returned to his patrol vehicle and pursued the Saab while Officer Thompson remained at the scene of the shooting.

Statements from the civilian witnesses corroborate the account provided by the officers. One witness, who said he was afraid the Saab would strike him, was walking on 3rd Street when he saw the Saab travel northbound on 3rd Street at a high rate of speed, swerving, screeching, smoking and fishtailing before colliding with vehicles stopped at a light. The witness saw a patrol car arrive within seconds, saw two officers exit with their guns drawn, heard the officers yell commands at the driver, and saw one officer fire at the Saab from behind the vehicle as it continued pushing through the cars in front before speeding away. A second witness, whose vehicle was hit from behind by the Saab, said that the police exited their vehicle and approached the Saab while yelling commands at the driver, that the Saab backed up and then moved forward again, and that an officer was in motion in the number two lane, toward the curb, when the Saab was backing up. A third witness saw the Saab approach at a high rate of speed and rear-end an SUV stopped in the northbound number one lane, and then saw a patrol car arrive and officers exit as the Saab backed up. The witness said he saw an officer back away from the Saab and, from about a half lane away, fire approximately three shots at the Saab as it sped away with its tires squealing and the engine revving. A fourth witness looked in his rear-view mirror after hearing a high pitched sound and saw the Saab swerving before hitting the back of his Toyota and then deflecting into the vehicle to his left. The witness saw the Saab back up and then go forward and ram his vehicle again, then heard sirens and saw patrol cars arrive and block the Saab. The witness then saw the Saab aggressively back up at least twice, heard police officers yelling at the driver and, as the Saab began accelerating, heard about five "booms."

Neither the officers nor any other known person was injured by the shooting. According to the investigation, three expended bullet casings and two bullet fragments were found at the scene near 3rd Street at 20th Street. None of the bullets appear to have hit the stolen Saab, which was found abandoned near 140 Dakota Street in San Francisco. Although Officer Thompson did not know how many shots he fired, based on the number of shell casings located at the scene and the

number of bullets remaining in Officer Thompson's service weapon, it appears that no more than three shots were fired. Wellington was eventually located and arrested several weeks later and charged with assault with a deadly weapon, vehicle theft, hit and run, and evading arrest.

ANALYSIS AND CONCLUSION

California Penal Code section 835a allows an officer to use reasonable force to make an arrest, and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because of that person's resistance.

Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm. California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal.App.3d 731. In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. CALCRIM 3470.

It is well established that an automobile, depending on how it is being used, may constitute a deadly weapon. *People v. Claborn* (1964) 224 Cal.App.2d 38,42; *People v. Finney* (1980) 110 Cal.App.3d 705, 716. Indeed, "[t]here is no question that an automobile can inflict deadly force and thus under certain circumstances can constitute the type of threat that justifies an officer's shooting the driver." *Acosta v. City & County of San Francisco* (9th Cir.1996) 83 F.3d. 1143, 1147 fn9 (citing *U.S. v. Acevers-Rosales* (9th Cir. 1987) 832 F.2d 1155, 1157, cert.denied, 484 U.S. 1077 (1988)).

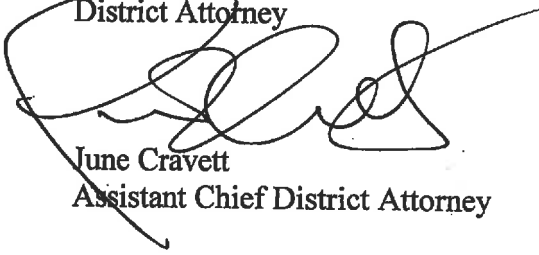
In this case, the evidence indicates that Officer Thompson, Officer Cader, and numerous civilians were in imminent danger of being struck by the stolen Saab driven by suspect Wellington at the time Officer Thompson discharged his weapon. Wellington had already crashed into two vehicles by the time the officers arrived on the scene and ordered him out of the stolen vehicle. Instead of complying with the officers' demands, Wellington continued trying to evade arrest by aggressively accelerating the Saab forward and back, ramming the vehicles in front of him, coming within five feet of Officer Cader, and causing both officers to move out of the way to avoid being hit.

Wellington demonstrated a callous disregard for the safety of the officers and the civilians on the road as he attempted to evade arrest by using the Saab to ram through the vehicles in his path. As Officer Cader described in his interview, Wellington looked directly at him, raised his hands, and yelled for him not to shoot, before once again accelerating backwards towards both officers. Fearing that Wellington was going to run over him and his partner, and fearing that Wellington would injure or kill a civilian, Officer Thompson discharged his weapon to stop Wellington from moving the stolen Saab any further.

After a thorough review of the applicable law and available evidence it appears that Officer Thompson's use of force was in response to an immediate threat of great bodily injury or death to himself, his partner and civilians in the area. It is therefore our conclusion that Officer Thompson acted lawfully.

Very truly yours,

George Gascón
District Attorney

A handwritten signature in black ink, appearing to read 'June Cravett', is written over the typed name and title. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

June Cravett
Assistant Chief District Attorney

cc: Lieutenant Toney Chaplin
Officer Brandon Thompson