



GEORGE GASCÓN  
DISTRICT ATTORNEY  
CITY AND COUNTY OF SAN FRANCISCO

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May 21, 2014

Chief Gregory Suhr  
Office of the Chief of Police  
San Francisco Police Department  
850 Bryant Street, Room 525  
San Francisco, CA 94103

Re: Officer Involved Shooting on March 2, 2013 (Report No. 130177276)

Dear Chief Suhr:

The San Francisco District Attorney's Office has completed its review of the March 2, 2013 shooting on Hester Avenue at Bayshore Boulevard in San Francisco by Daly City Police Officer Bruce Anthony Perdomo (Star # 178). We have concluded that Officer Perdomo was acting lawfully in self-defense and in defense of others when he shot Aaron Westley Sawyer. 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 March 2, 2013, just after midnight, uniformed Daly City Police Officer Nicholas Ottoboni (Star # 188) was on duty alone in a marked patrol car at John Daly Boulevard in Daly City when he confirmed that a black Honda Civic stopped in front of him at a traffic light had been reported stolen. Officer Ottoboni saw what he thought were two male figures silhouetted in the Honda. When the traffic light changed, the Honda sped off at a high rate of speed. Officer Ottoboni activated his overhead lights and gave chase following the stolen Honda on to Interstate 280 towards San Francisco. On Interstate 280 the Honda was driving recklessly between 80 and 100 miles an hour. Officer Ottoboni was ordered to end the chase as too dangerous, and last saw the stolen Honda on northbound Interstate 280 near the Alemany exit.

Uniformed Daly City Police Officers Bruce Perdomo (Star #178) and Peter Skeeahan (Star # 191) heard Officer Ottoboni's broadcast about the stolen Honda and quickly drove their marked patrol car northbound on Alemany Boulevard to Interstate 280. As they continued northbound on 280 they heard the termination order and stopped pursuit of the Honda, continuing on 280 to Highway 101 south to get back to Daly City. As they drove south on Highway 101 they saw a black Honda abruptly exit at Paul Avenue, and followed it. The officers got close enough to see the license plate of the Honda and confirmed by computer that it was the same stolen black Honda chased by Officer Ottoboni. The Honda began running stop signs on San Bruno Avenue.

Officers Perdomo and Skeeahan were about three blocks behind the Honda when they saw a marked San Francisco Police Department patrol car make a U-turn on San Bruno, turn on its overhead lights, and chase the Honda onto southbound Highway 101. The occupants of the SFPD patrol car, Officers Gary Cheng (Star #2311) and Rigoberto Haro (Star #2323), were unaware of the previous chase of the Honda by Daly City Police when they decided to follow the Honda after seeing it approach them speeding northbound on San Bruno Avenue at 50 to 60 miles per hour and run a stop sign.

The Honda continued on Highway 101 followed now by both SFPD and DCPD patrol cars when it suddenly began to smoke, spark from the bottom of the vehicle and slow down. The Honda took the Bayshore Boulevard exit with both patrol cars following. The Honda continued to slow down significantly but roll downhill on Bayshore Boulevard, south of Hester Avenue, in the far right lane next to the curb. Officer Cheng could see the driver of the Honda holding a firearm up towards the Honda's roof. Officer Perdomo put his patrol car into park about a car length behind the Honda. Officers Perdomo and Skeeahan got out of their patrol car with weapons drawn as the Honda's doors opened and the driver (later identified as Aaron Sawyer) and passenger (later identified as [REDACTED]) exited on their respective sides.

Officers Cheng and Haro saw Sawyer holding a handgun as he got out of the driver's side of the Honda and ran. Sawyer ran west across Bayshore and the Muni tracks, and then backtracked and ran east and north up Bayshore Avenue towards Hester Avenue. Officer Perdomo joined the chase, while Officer Skeeahan stayed with the Honda and detained Hurtado. Officer Perdomo first saw the firearm in Sawyer's hand when he saw Sawyer running on the sidewalk as he emerged from behind a truck parked on the east side of Bayshore Boulevard.

As Officers Perdomo and Cheng chased Sawyer up Bayshore, Officer Perdomo was slightly in the lead. Both officers yelled commands at Sawyer to drop the gun. As Sawyer ran up Bayshore and turned right onto Hester Avenue, he had the gun in his right hand pointed downward. After turning onto Hester Avenue, Sawyer ran to his right and onto a large driveway at the Bayside Cafe. Sawyer stopped in the middle of the driveway with his gun pointed downward. Sawyer took about three steps towards Officer Perdomo and then took three steps towards Bayshore such that his body was now sideways or "bladed" towards Officer Perdomo with his left shoulder facing Officer Perdomo from a distance of about 10 to 15 feet. As he was looking at Officer Perdomo, Sawyer raised his right hand across his chest and pointed his firearm at Officer Perdomo and said, "I'm going to fuck . . ." Officer Perdomo said, "Drop it." Fearing Sawyer would shoot him, Officer Perdomo fired nine successive rounds at Sawyer. Sawyer turned away from Officer Perdomo, dropped his hand downward, turned back towards Officer Perdomo, took a few steps down the driveway, dropped the firearm, took a few more steps to the right and fell backwards. Sawyer was pronounced dead at the scene.

There was a single civilian witness to the incident who, after hearing a commotion outside his bedroom window, looked out over his balcony and saw a man with a gun in his right hand run across Bayshore Boulevard and then northbound on the sidewalk with four or five officers in pursuit saying, "Stop. Stop. Stop running." The witness could not see what the man was doing once he reached the Bayside Cafe, but could see the officers holding their arms out like they were holding their weapons and then heard about five shots in quick succession.



The Medical Examiner concluded that Sawyer died as the result of multiple gunshot wounds. The autopsy report noted Sawyer suffered three penetrating, two perforating and two graze gunshot wounds of the torso and lower extremities caused by either six or seven gunshots. Of the penetrating gunshot wounds, one was to the mid-right back with a course of direction from back to front, left to right and upward; another was to the left flank at the left mid-back with a course of direction from left to right, back to front and upwards; and the third was to the right buttocks penetrating the left sigmoid colon. Of the perforating gunshot wounds, one was to the back right thigh, exiting the right inner thigh; and the second was to the back upper left thigh exiting the front left thigh with a course of direction from back to front, slightly left to right and upwards. Of the two graze gunshot wounds, one was to the mid-lower back; and one was to the upper inner left thigh.

The SFPD Major Accident Investigation Team performed a Trajectory Analysis, a Cartridge Case Ejection Pattern Test and a Ballistic Test. Analysis of bullet strikes and the location of the ejected cartridges in relation to Officer Perdomo's position corroborate Officer Perdomo's description of the shooting. The testing supports the assumption of a stationary shooting position by Officer Perdomo at the crime scene.

Sawyer's firearm was a 45 caliber automatic Kimber. When the Kimber was secured at the crime scene, it was not cocked, the safety was off, the chamber was empty and the magazine was loaded with eight cartridges. The Kimber was tested and found to be functional using the submitted magazine.

Sawyer had a significant criminal history, including felony convictions for auto theft, first degree burglary and being an addict in possession of a firearm, and had spent time in state prison. According to Hurtado, who admitted to being a Norteno gang member, Sawyer was known as a "Norteno dropout." Sawyer posted photos on his Facebook page showing him holding a firearm which appears identical to the firearm found in his possession at the scene. Another photo on his Facebook page shows a dead pig's head with an associated caption reading, "This is what happens to cops that fuck the wrong people."

## CONCLUSION

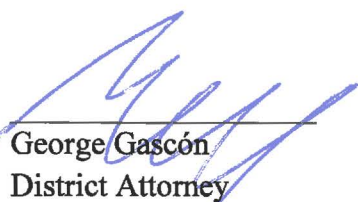
California Penal Code section 835a allows an officer to use reasonable force to make an arrest, and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because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

Here, as previously stated, Sawyer took members of the Daly City and San Francisco Police Departments on a high speed chase through the streets of San Francisco while driving a stolen car and in possession of a loaded firearm. Once his car was disabled, Sawyer attempted to flee from the officers by running while brandishing the firearm. As Officer Perdomo and other officers attempted to capture Sawyer by running after him, Sawyer stopped, turned and pointed his firearm at Officer Perdomo, refused to obey numerous commands to drop the weapon, and said "I'm going to fuck ...." Officer Perdomo shot Sawyer in self-defense and in defense of others as he was reasonably in fear for his life and the lives of the other officers.

It is our conclusion that Officer Perdomo acted lawfully.

Very truly yours,



George Gascón  
District Attorney

cc: Chief Manuel Martinez, Jr., Daly City Chief of Police  
Lieutenant Tim Plyer, San Francisco Police Department Homicide Unit  
Officer Bruce Perdomo, Daly City Police Department