

CITY AND COUNTY OF SAN FRANCISCO

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June 24, 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 5, 2013 (Report No.130188386)

Dear Chief Suhr:

The San Francisco District Attorney's Office has completed its review of the March 5, 2013 shooting in front of 22 George Court in San Francisco involving San Francisco Police Officers Edric Talusan (Star # 1114) and Kevin Rightmire (Star # 1965). We have concluded that Officers Talusan and Rightmire were acting lawfully in self-defense and in defense of others when they discharged their weapons at Eddie Tilman as he drove a stolen BMW. 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

On March 5, 2013, four members of the Bayview Station Housing Unit, San Francisco Police Officer Edric Talusan, Officer Kevin Rightmire, Officer Thomas Ly (Star # 793) and Officer Alvaro Mora (Star # 2349), were in uniform and on patrol in a marked unit. The officers were informed about a carjacking that had occurred in the Bayview District the previous day, March 4, 2013. In that incident, a shotgun was used to rob a woman of her 2011 silver BMW.

At 6:45 p.m., the officers spotted a double-parked silver BMW that did not have front or rear license plates and matched the description of the BMW taken during the reported carjacking incident. The officers watched the suspect (later identified as Eddie Tillman) get into the vehicle and drive away. The officers activated the marked police vehicle's emergency lights and siren and pursued the BMW. The BMW ran numerous stop signs and exceeded the speed limit before entering George Court, a cul-de-sac with no outlet.

As the BMW came to a stop at the dead end of the cul-de-sac, the marked police vehicle pulled along the driver's side of the BMW and stopped. The officers had expected Tillman to jump out of the vehicle and attempt to escape on foot. In anticipation of a foot pursuit, Officer Ly jumped out of the rear right passenger side of the police vehicle. Officer Ly was directly behind the stopped BMW when the BMW backed up, hitting him with the rear end of the vehicle. Officer Ly was able to spin away from the BMW as it continued to back up and hit an unmarked police

WHITE COLLAR CRIME DIVISION

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vehicle. As Officer Talusan and Officer Rightmire exited the police vehicle, they believed that Officer Ly had been hit by the BMW, thought he could be trapped under the BMW, and worried that any movement by the vehicle could cause him great bodily injury or death. They were also concerned that, as Tillman tried to flee, he posed a great threat to members of the public on the road and officers responding to the scene. Officer Talusan, with his weapon drawn, shouted at Tillman to stop the vehicle but, instead of stopping, Tillman drove forward. Both officers fired at Tillman and continued firing until the BMW came to a stop. Tillman was hit with one bullet and suffered a non-life threatening wound to the left side of his chest.

CONCLUSION

California Penal Code section 835a allows an officer to use reasonable force to make an arrest, to prevent escape or 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.

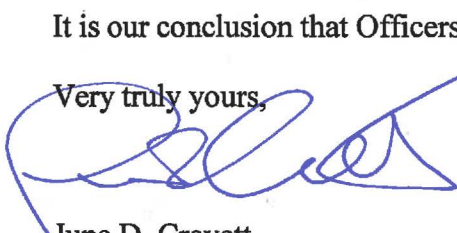
Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm. California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense 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.

In the present case, when Officers Talusan and Rightmire discharged their weapons they were trying to stop further injury to Officer Ly, who they believed could be trapped under the BMW, and they reasonably believed that Tillman posed a deadly threat to everyone in the vicinity of the incident. The officers continued firing until Tillman no longer appeared to pose a risk to anyone--when his car came to a stop.

Based on the foregoing, there is sufficient evidence to show that Officer Talusan and Officer Rightmire reasonably believed that they were acting in self-defense and in defense of others when they discharged their weapons.

It is our conclusion that Officers Talusan and Rightmire acted lawfully.

Very truly yours,



June D. Cravett
Chief of the White Collar Division
San Francisco District Attorney's Office

c: Lieutenant Tim Plyer
Officer Edric Talusan
Officer Kevin Rightmire