

CITY AND COUNTY OF SAN FRANCISCO



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March 26, 2015

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 December 30, 2013 (Report No. 131 096 510)

Dear Chief Suhr:

The San Francisco District Attorney's Office has completed its review of the December 30, 2013 shooting at 19<sup>th</sup> Avenue and Taraval Street in San Francisco involving Officer Wayne Wong (Star # 2223). We have concluded that Officer Wong was acting lawfully in self-defense 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 December 30, 2013, at approximately 8:50 pm, a two man plain clothes patrol unit from Bayview Station was conducting enforcement work in the area of the Potrero Hill Housing projects. The officers had been focusing on the area because there had been a recent surge in violent crimes including gun violence and a homicide. Officer Matthew Cloud (Star # 1159) was driving the patrol car, which was a red unmarked SFPD Crown Victoria equipped with red lights facing forward and a siren. Officer Cloud's partner, Officer Christopher Dunne (Star # 1775), was seated in the front passenger seat.

The officers noticed a late model black Dodge Challenger with Illinois or Nevada license plates driving near the Potrero Hill Projects. Officer Dunne knew that a number of rental cars with out-of-state license plates had recently been involved in the commission of serious crimes in that area. The driver of the Dodge, an African American male adult wearing a white T-shirt, later identified as Jaques Samuel, was the sole occupant of the vehicle, and was not wearing a seat belt in violation of section 27315 of the California Vehicle Code. Officer Cloud thought Samuel was acting suspiciously by leaning back in his seat as he drove past them.

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WHITE COLLAR CRIME DIVISION

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The officers conducted a traffic enforcement stop for the seat belt violation by activating the red emergency lights facing forward and sounding the vehicle's siren. The Dodge slowed to approximately 10 miles per hour but did not immediately stop. The officers turned off the siren and left their red emergency lights illuminated and followed behind the vehicle. The officers notified dispatch the vehicle had failed to yield. Samuel continued to drive slowly, and after several hundred yards, the Dodge eventually stopped.

As the officers exited their vehicle and approached, both noticed Samuel making furtive gestures which looked like he was hiding something under the rear of the front passenger seat. The officers felt the driver may have been in possession of a firearm and updated dispatch of a possible "221" (person in possession of a firearm). The vehicle then fled at a high rate of speed, entered the freeway and drove southbound on I-280. The officers followed the Dodge from a distance and broadcasted suspect information and requested the assistance of marked SFPD Units. Marked SFPD patrol units eventually took over as the primary pursuit vehicles.

SFPD units updated dispatch that the suspect was driving dangerously as the Dodge struck multiple cars which were stopped at a traffic signal when it exited from the freeway at Monterey Boulevard. The Dodge continued at a high rate of speed and Samuel attempted to ram a marked SFPD patrol unit in the Ingleside District while trying to evade the pursuing SFPD units.

While traveling northbound at 19th Avenue and Taraval Street, Samuel was in the #2 lane and could not continue because of traffic congestion at a red light. The primary pursuit vehicle, driven by Officer Shaun Navarro (Star # 1435) with his passenger Officer Winson Seto (Star # 2370), was a marked unit immediately behind the Dodge. Officer Seto exited the car in full uniform with his department issued firearm pointed at Samuel and yelled verbal commands as he attempted to open the rear passenger door of the Dodge. Samuel continued to drive forward and drove over Officer Seto's foot. Officer Seto was later treated at the hospital and released.

A second marked SFPD patrol, driven by Officer Wayne Wong (Star #2223) with his passenger Officer Brian Conway (Star #454), was travelling eastbound on Taraval Street and blocked, at minimum, the #1 lane of northbound traffic on 19th Avenue. The two officers exited their vehicle in full uniform while their patrol vehicle partially blocked traffic. They approached the Dodge with their department issued guns drawn and shouted commands at Samuel, who then revved the engine of the Dodge loudly and drove forward smashing his way between civilian vehicles that were stopped at the red light. The Dodge then accelerated quickly towards Officer Wong. Officer Wong, fearing for his life, his partner's life and the lives of innocent civilians, discharged one round from his firearm striking the Dodge in the front driver's side fender. Samuel was not hit by gunfire. Samuel continued to flee northbound on 19th Avenue. He then drove at a high rate of speed down Lincoln Way and smashed into a concrete barrier outside of SFPD Park Station. Samuel then fled from the crashed vehicle and was taken into custody a short time later. He was taken to the hospital and treated for injuries sustained in the crash, and then booked for violations of 245c PC (Assault on a Police Officer), 2002 VC (Hit and Run) and 2800.2 VC (Evading a Peace Officer/Reckless Driving).

Accounts by the two victims whose cars were hit by the Dodge are consistent with the accounts provided by the officers. One of the victims said he was stopped at a red light after exiting the freeway at Monterey Blvd when he heard police sirens followed by a car honking its horn from behind. A dark, newer model Dodge Charger then sideswiped the passenger side of his vehicle

causing some injury to his left shoulder. The Dodge then continued through a red light while an unmarked police vehicle with emergency lights illuminated followed behind.

The second victim said that he was Northbound on 19<sup>th</sup> Avenue, stopped at a red light, when he saw several police vehicles with their emergency lights illuminated in the area. He saw a police officer on foot, maneuvering between vehicles with his firearm drawn, and a police vehicle blocking the northbound traffic. A sedan struck his car on the front driver's side and pushed his vehicle out of the lane of traffic in which he had stopped. The sedan pushed its way through multiple cars and continued to travel northbound while the police cars followed.

Samuel was interviewed and said he was a passenger in the Dodge and was with an associate who he only knew as Mario (aka Rio), who was driving. He said that a red or blue car pulled behind them and they both felt the car was suspicious so they pulled over although they did not see any lights or hear sirens. Samuel said he saw two flashlights approach from behind and that he and Rio became fearful and fled the scene. Samuel said they entered the freeway and fled. Samuel said he knew the police were behind him on 280 and described seeing oscillating headlights. Samuel stated at one point they were going to take the Alemany exit off 280 but suddenly changed direction and veered back onto 280. At the intersection of 19<sup>th</sup> Avenue and Taraval Streets, they were stuck in traffic and tried maneuvering through cars while revving the engine loudly, when he saw a white officer in a full uniform approximately 15 feet in front of their vehicle fire three to four rounds at them. Samuel said they were scared and fled the scene until they finally crashed.

During the course of the interview Samuel stated he has a methamphetamine addiction and always runs from the police. Samuel also said when he is under the influence of methamphetamine, he thinks he can do anything.

#### ANALYSIS AND 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. The statute provides that the officer need not retreat or end his effort to make an arrest because of the 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.

Here, as previously stated, Officer Wong saw the Dodge begin to plow in between civilian vehicles that were blocking its path on 19<sup>th</sup> Avenue and saw it drive directly towards him as he stood in the crosswalk near the #2 lane. Further, Officer Wong heard the Dodge's motor "roaring," as it accelerated at a high rate of speed and crashed into the civilian vehicles in adjacent lanes. As Officer Wong saw Samuel driving straight towards him, he had lost sight of his partner, Officer Conway. Fearing for his own safety, the safety of his partner and the general public, Officer Wong fired one round at Samuel in order to "stop the threat."

Under these facts, it was reasonable for Officer Wong to discharge his weapon at Samuel to protect himself and others. It is, therefore, our conclusion that Officer Wong acted lawfully.

Very truly yours,

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June Cravett  
Assistant District Attorney

cc: Lieutenant Toney Chaplin  
Officer Wayne Wong