

CITY AND COUNTY OF SAN FRANCISCO



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May 22, 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 August 4, 2012 (Report No. 120617050)

Dear Chief Suhr:

The San Francisco District Attorney's Office has completed its review of the August 4, 2012 shooting near 859 Missouri Street in San Francisco involving San Francisco Police Officer Shante Williams (Star # 2336). We have concluded that Officer Williams was acting lawfully in self-defense and in defense of others when he shot Brian Cooper, also known as Melvin Cooper. Our review did not examine such issues as compliance with the policies and procedures of the San Francisco Police Department, 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 August 4, 2012, at approximately 6:40 p.m., uniformed San Francisco Police Officers Shante Williams (Star # 2336) and John Norment (Star # 641) were waiting for a tow truck to finish recovering a stolen vehicle near 40 Dakota Street in Potrero Hill. Officer Williams was sitting in the marked patrol car and Officer Norment was outside of the car talking to the tow truck driver on the other side of the street, when dispatch broadcasted a report of a "221" (SFPD radio code for "person with a gun") at 15 Dakota Street. Dispatch described the suspect as a black male, approximately 25 years old, wearing a light blue jacket and jeans, and said he was last seen walking down Dakota Street.

Upon hearing the broadcast, Officer Norment got Officer Williams' attention and either mouthed "two two one" or flashed two fingers twice then one finger once. When Officer Norment turned back to survey the street, he saw a person who fit the description of the suspect (later identified as Brian Cooper, aka Melvin Cooper). At the same time, Officer Williams looked over his left shoulder toward 15 Dakota Street and also saw Cooper walking downhill towards the officers. Officer Williams got out of the car and immediately noticed that, as Cooper was walking, he was swinging his right arm freely, but clutching his left waist with his left hand. Since the dispatch broadcast was regarding a person with a gun, Officer Williams believed that Cooper was concealing a gun with his left hand.

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From approximately 50 feet away, Officer Williams made eye contact with Cooper, walked quickly toward Cooper, and yelled: "Hey, stop! Come here!" Cooper started to run, turned left behind a row of buildings and then ran east toward Watchman Way. Officer Williams saw that, as Cooper ran, he was pumping his right arm in a running motion, but continued to clutch his left waist with his left hand. Officer Williams drew his gun and ran after Cooper, with Officer Norment running behind Officer Williams, also with his gun drawn. Officer Williams yelled "Stop! Police!" several times as he chased Cooper. Officer Williams pursued Cooper past the buildings that border Dakota Street and toward a group of two story buildings in the middle of the housing development. Cooper looked back at Officer Williams several times but continued to flee.

Officer Williams chased Cooper along the building line of one building and then through an open area towards another apartment building. At the next building line, Cooper climbed over a metal hand rail and ran down a sidewalk that runs the length of the east side or back of the building. Rather than climbing over the railing, Officer Williams hurdled the bar, thereby closing some of the distance between the two. As Cooper started to turn the corner at the end of the building line, he tripped, fell, and slid head first on his stomach with both of his hands forward in front of his head. Officer Williams had closed the distance between himself and Cooper to approximately 20 to 25 feet. When Cooper fell, Officer Williams stopped running towards Cooper and took a more methodical approach because he believed Cooper had a gun. Officer Williams walked quickly towards Cooper and yelled "Show me your hands!" several times. Cooper then placed his left hand on the ground and began to stand up. As Cooper did so, Officer Williams saw him reach into his left waistband with his right hand and remove a chrome and black gun. Officer Williams ordered Cooper to drop the gun several times. Officer Williams first thought that Cooper might throw the gun, but became extremely concerned for his safety when Cooper did not immediately drop the gun as there was no place nearby to seek cover. Officer Williams was also afraid that Cooper would shoot Officer Norment, who Officer Williams believed was running up behind him.

Instead of dropping the gun, Cooper continued to stand up, and within few seconds turned to his left toward Officer Williams and pointed his gun at the officer. Officer Williams then fired three successive rounds at Cooper. By the time Officer Williams fired the third round, Cooper had gotten to his feet and the gun was flying out of Cooper's hand. Once Cooper was unarmed, Officer Williams stopped shooting. The gun landed within arm's reach of Cooper, so Officer Williams quickly walked over to the gun and kicked it a few more feet away from Cooper, and stood over the gun until other officers arrived. At that point, Officer Norment came around the corner and placed Cooper in handcuffs as he was trying to crawl away. Both officers could see that Cooper was bleeding and called for an ambulance.

Almost immediately, numerous San Francisco Police officers arrived at the scene and began trying to control the angry crowd that was rapidly forming. Officer Melissa Benzinger (Star #549) arrived and began to render first aid to Cooper when she noticed clear, plastic material sticking out of his clinched fist. She removed the bag and saw that it contained a substance she immediately recognized as methamphetamine. Cooper was taken by ambulance to San Francisco General Hospital where he was treated for gunshot wounds to his lower back, right calf, and left foot.

There were two civilian witnesses to this incident, both of whom knew Cooper. The first witness saw the initial contact and chase, but lost sight of Cooper and the officers when they rounded the corner. He stated that Officer Williams was yelling "Stop! Hold it right there! Police!" continuously until he heard gunshots. When he rounded the corner he saw Cooper on the ground and numerous police officers rushing to the scene.

The second witness (the first witness' son) had known Cooper for 10 years, was on active parole for being a felon in possession of a firearm, and admitted to smoking marijuana and taking Percocet and an anti-anxiety medication earlier in the day. Two hours before the interview he was arrested for possessing methamphetamine for sale. The witness said he had just woken from a nap he had taken to sleep off some medication when he saw the shooting from the balcony of his mother's apartment. The witness claimed that he watched as Cooper was shot while surrendering with his hands behind his head. The video taken by the witness on his cellphone did not capture the shooting, but does depict Cooper lying on the ground being attended to by an officer, and an angry crowd forming around the scene. Although the balcony would have provided a clear view of the incident, the witness' statement about what he actually saw is not credible for a number of reasons, including: (1) he reports hearing the sound of gunfire before looking down from the balcony; (2) he first says he saw Cooper and the officer run past him and points out the direction they were traveling, but later says he didn't see them run past him at all; (3) he first says Cooper was down on his knees when he was shot but later says Cooper was upright but starting to go down when the shots rang out; and (4) he never hears anyone yell "Stop" or "Police" even though his father described hearing those commands continuously until the shots were fired.

Cooper's firearm was a 9mm semi-automatic pistol with a four inch barrel. The gun was loaded with 11 cartridges in the magazine and was operable. San Francisco Police Crime Scene Investigations recovered three Winchester 40 Smith & Wesson casings at the scene which were fired by Officer Williams' service weapon.

Cooper has a significant criminal history, including felony convictions for robbery with a gun and possession of cocaine base for sale. At the time of this incident, Cooper was on parole for the robbery conviction with an active warrant for his arrest for violating the terms of his parole.

CONCLUSION

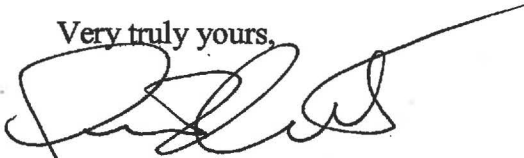
California Penal Code section 835a allows an officer to use reasonable force to make an arrest and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because 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 371. 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 imminent. CALCRIM 3470.

Here, as previously stated, Cooper fit the description of a man reported to be in possession of a gun on the same block where two San Francisco Police officers were waiting for a tow truck to remove a stolen car. As Cooper walked toward the officers, Officer Williams saw that Cooper was clutching his left waist with his left hand which led him to believe Cooper was concealing a gun near his waist. Upon making eye contact with the officers, Cooper failed to obey Officer Williams' repeated commands to stop and took the officers on a foot chase into the housing development. Throughout the foot chase, Cooper kept a hand near his waistband, reaffirming the officer's suspicion that he was carrying a gun. When Cooper fell near the end of the chase, he removed a gun from his waistband. Cooper then ignored Officer Williams command to drop the gun and instead pointed the gun at Officer Williams. Officer Williams shot Cooper in self-defense and in defense of others as he was reasonably in fear for his life and the life of his partner, Officer Norment.

It is our conclusion that Officer Williams acted lawfully.

Very truly yours,



June Cravett
Assistant Chief District Attorney
San Francisco District Attorney's Office

c: Lieutenant Tim Plyer
Officer Shante Williams