

REPORT ON THE OFFICER-INVOLVED SHOOTING OF  
ALICE BROWN ON MARCH 17, 2015



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## **I. INTRODUCTION**

The San Francisco District Attorney's Office (SFDA) has completed its review of the officer-involved shooting that resulted in the death of Alice Brown in San Francisco, California, on March 17, 2015. The SFDA's review was conducted by the office's Independent Investigations Bureau (IIB) and focused exclusively on determining whether criminal charges relating to the officers' conduct are warranted. IIB's review did not examine issues such as officers' compliance with internal SFPD policies and procedures, their training or tactics, or any issues related to civil liability. This report should not be interpreted as expressing any opinions on such non-criminal matters.

In brief, on March 17, 2015, San Francisco Police Department (SFPD) Officers Michael Tursi (Star No. 997), Donn Peterson (Star No. 2289), and Sgt. Tom Maguire (Star No. 1158) approached a female driver, later identified as Alice Brown, because they had reason to believe she was driving a stolen vehicle. Brown fled in her car, causing the officers to pursue her on foot. During the short chase, Brown rammed into occupied cars and parked cars, drove the wrong way on a one-way street, drove on a sidewalk without regard to nearby pedestrians, smashed into a building, caused officers to jump out of her way several times to avoid being hit, and nearly hit a motorcyclist. Officer Tursi and Sgt. Maguire ended the car chase by shooting Brown, who died on scene from her gunshot wounds. For the reasons detailed below, the District Attorney declines to pursue criminal charges against any of the SFPD officers involved relating to their conduct in this matter because we cannot prove beyond a reasonable doubt that their actions were not reasonably taken in defense of themselves and others.

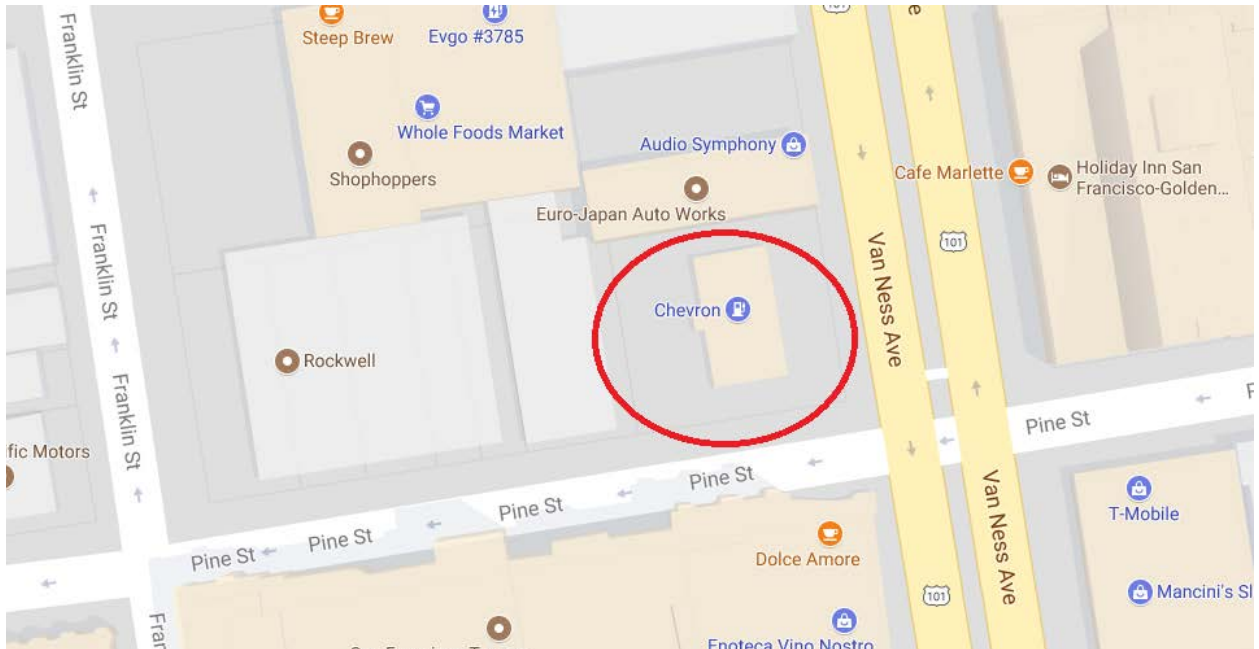
## **II. FACTUAL SUMMARY**

On the date of the incident, at approximately 7:00 p.m., Officer Tursi received a tip from a confidential source that a female driving a stolen blue Volkswagen Jetta was at the Chevron gas station at Van Ness Avenue and Pine Street. (Law enforcement later confirmed that indeed, this car was stolen.) Shortly thereafter, Officer Peterson, with Sgt. Maguire in the passenger seat and Officer Tursi in the back, drove to the gas station in an unmarked Crown Victoria. They found Brown behind the wheel of a blue Jetta, parked in the back corner of the gas station. Sgt. Maguire and Officer Tursi, who were in plain clothes, got out of the car and told her they were police. She immediately reversed her car, smashed into a pole and/or gas station kiosk,<sup>1</sup> and raced out of the parking lot onto Pine St.

Pine St. is a one-way street headed westbound. *See* Fig. 1a below. There is a parking lane on the south-most edge of Pine St., and three lanes of traffic. *See* Fig. 1b below. At the time of the incident, however, there were only two lanes open for traffic because the north lane (Lane 3) was blocked for construction. The open two lanes were Lane 1 (the south lane) and Lane 2 (the middle lane).

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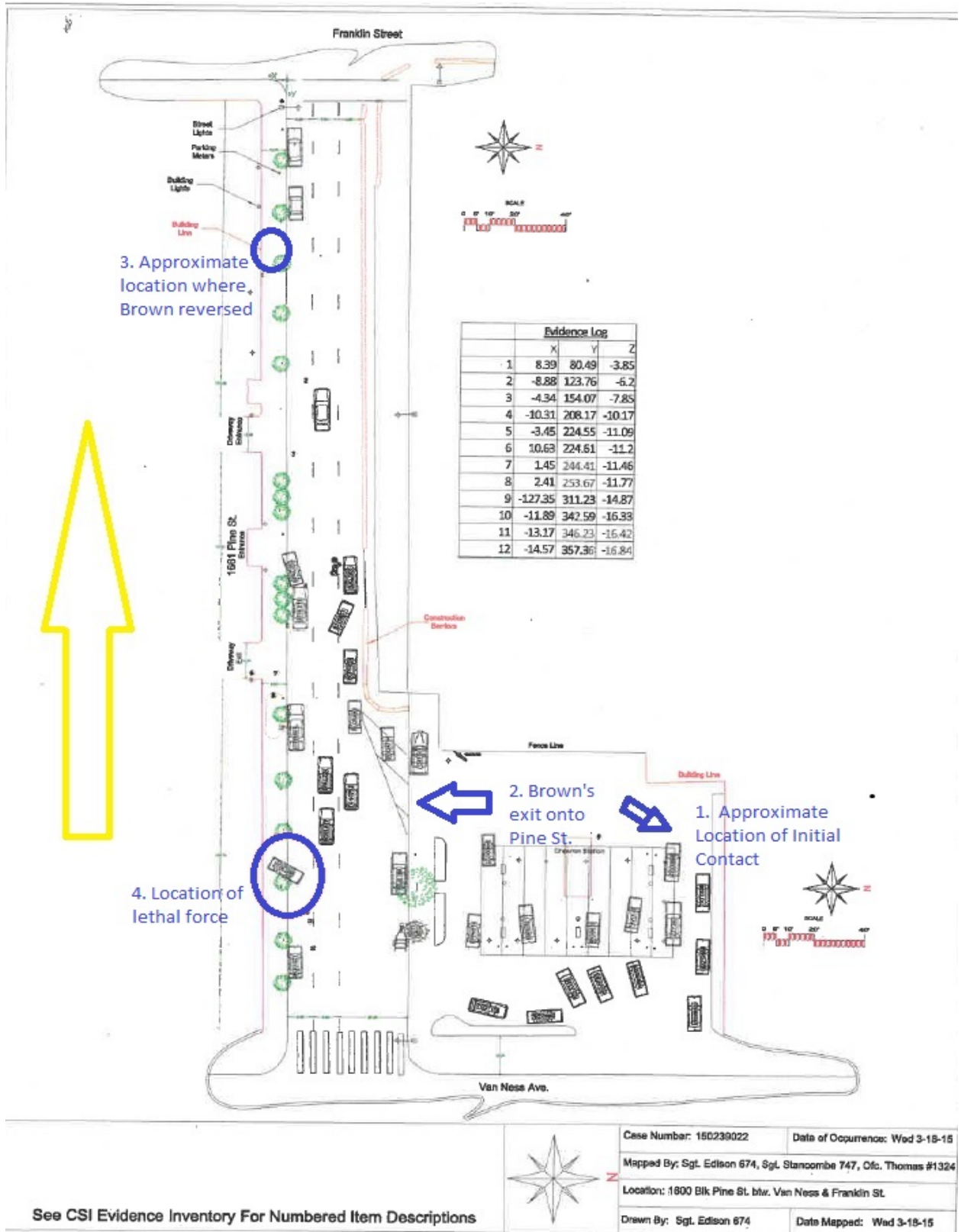
<sup>1</sup> Witnesses agreed that Brown slammed into an object at the gas station when she reversed, but disagreed as to whether it was a pole or a kiosk.



**Fig. 1a:** Map showing Pine St. between Van Ness Ave. and Franklin St. The red circle marks the Chevron gas station where officers initially encountered Brown. (Source: Google Maps.)



**Fig. 1b:** Street level view of Pine St. from Van Ness Ave. circa April 2015. The far left lane is the parking lane. This picture depicts Lane 3 blocked by orange construction barriers as it was during the incident. (Source: Google Maps).



**Fig. 1c:** Crime scene diagram depicting Pine St. between Van Ness Ave. and Franklin St. The yellow arrow depicts the direction of traffic, and the blue arrows show the direction of Brown's car. The rectangles represent cars, and the green circles represent trees. (Source: SFPD Crime Scene Investigations (CSI)).



Sgt. Maguire and Officer Tursi immediately pursued her on foot. Officer Peterson joined the foot pursuit after he parked his Crown Victoria in the parking lane on Pine St. Brown drove out of the Chevron gas station and cut all the way across Pine St. to the parking lane, which she drove in until she was boxed in by a parked car in front of her and a motorcyclist in Lane 1, (later identified as Nicholas P.), who was waiting at a red light. She cut into Lane 1 (nearly hitting Nicholas P.) and then drove in between a parked car in the parking lane and an occupied car in Lane 1, hitting both cars. See Figs. 2 and 3.



**Fig. 2:** Brown driving from the parking lane and cutting into Lane 1, nearly hitting a motorcyclist, Nicholas P. (Source: Taxi Video).



**Fig. 3:** Brown squeezing between a parked car and an occupied car in Lane 1. (Source: Taxi Video).

Brown then raced up the parking lane, but again was boxed by a parked car in front of her and stopped traffic to her right in Lane 1. When the officers caught up to her, she executed a

three-point turn, hitting an object with each turn: she turned her wheels to the right and slammed into an occupied vehicle in Lane 1; she reversed onto the sidewalk and hit the building behind her; and she then turned her wheels to the right again and rammed into another occupied vehicle in Lane 1. Officer Peterson caught up to the other two officers during the course of this three-point turn, and all three officers had to jump around her car to avoid being run over. *See* Fig. 4.



**Fig. 4:** Brown reversing onto the sidewalk during the course of her three-point turn, before driving headfirst on Pine St. The green circles single out the three officers. (Source: Building Surveillance Video)

Brown then drove against the path of traffic, heading eastbound on Pine St. towards Van Ness Ave., recklessly weaving through parked cars and stopped traffic. She hit one parked car so hard that it jumped onto the sidewalk. She then drove towards Nicholas P. and another motorcyclist who was next to him in Lane 1. Nicholas P. abandoned his motorcycle and ran to safety; Brown drove very close to the second motorcyclist, who got off his motorcycle and used it as a shield from her car. *See* Fig. 5. About 50 yards before the intersection of Van Ness Ave. (west of Van Ness Ave.), she again got stuck in traffic, which enabled the officers to catch up to her with their guns pointed. Officer Tursi reached her first, and fired his weapon through the front passenger-side window. Brown quickly reversed onto the sidewalk. Sgt. Maguire and Officer Tursi, standing on the passenger side of her car, fired their weapons through the front passenger window, striking her, and causing the car to finally come to a rest. *See* Fig. 6.



**Fig. 5:** Brown, driving against the flow of traffic (as evidenced by the headlights), in close proximity to another motorcyclist, who is highlighted by the yellow circle. Nicholas P. had been next to this motorcyclist, but he abandoned his motorcycle when he saw Brown driving towards them and fled to safety. (Source: Taxi Video).





**Fig 6:** Brown's damaged car in its final resting location. (Source: SFPD CSI)

### **A. Witness Statements**

Over forty civilian witnesses provided statements to law enforcement. Because video recorded much of the incident, the witnesses' accounts are most useful in fleshing out what they heard and how they felt. Several witnesses were at the gas station when the officers approached and reported that the plain-clothed officers were identifiable as officers because they saw the officers' badges and/or because they heard the officers say they were the police. The witnesses also stated that the officers gave Brown verbal commands which she disregarded by recklessly reversing her car and running into a pole/kiosk at the gas station. Several witnesses reported that they continued to hear the officers give Brown commands, to include the officers' yelling "Stop!" before lethal force was used.

Many of the witnesses vividly described Brown's reckless driving, reporting that they were scared. Omar P. was present at the gas station when the officers initially made contact with Brown, and heard the officers say, "Police, get out." In response, Brown "gunned" her car and drove "fast." Omar P. reported that she "could have hit anybody" and that the officers had to jump out of the way to avoid being hit. One of the motorcyclists, Nicholas P., noted that on Brown's first pass on Pine Street, he "almost" was hit by her car. When she returned "barreling down" Pine Street, he realized he was "in danger," dismounted from his motorcycle, and ran to the side for safety. Stephen B., a pedestrian on the sidewalk, reported that Brown was on a "rampage" and appeared "angry and crazy." Fearing for his own physical safety because he was concerned Brown was going to drive on the curb and hit him, he moved further away from her

on the sidewalk. Similarly, Tammy A. reported that she was “scared” and feared that Brown was “gonna run in and kill us, run over us or something.” David K., a witness at the gas station, described her driving as “crazy” and “out of control.” He reported that Brown had “no regard” for the officers, and that the officers gave Brown many opportunities to stop driving before they resorted to lethal force. Shelley S., who had just parked her car, described Brown’s driving as “completely crazy.” She said that Brown drove as if she did not care if she ran people over, and that it “was quite obvious” that she was “intent on not stopping.” Similarly, Cecilio V. echoed that Brown was not following any commands and that he believed that she would have continued driving if the officers did not use lethal force. Nelson E. agreed, stating that Brown was driving with “no regard for bystanders or traffic” and that because “she was not gonna stop,” the officers had no choice but to use lethal force.

## **B. Video and Audio Recordings**

### **1. Street Camera and Building Videos**

There are several videos that capture portions of the incident. Video from the gas station shows the initial contact between the officers and Brown. There is no audio. Brown’s car is parked in the rear by the restroom, and the officers pull up to face her car head-on. Almost immediately, Brown backs up her car. Officer Tursi and Sgt. Maguire jump out, their badges visible around their necks. Brown drives quickly out of the parking lot, onto Pine St. (The video cameras are not angled to capture her complete three-point turn or her smashing into the pole/kiosk).

A building’s surveillance system captures most of Brown’s flight along Pine Street, as described above. That system, like the gas station’s, however, is video only.

In addition, a taxi cab waiting in traffic on Pine Street had a front-facing camera that captured audio and video. This video corroborated witness accounts that the officers were identifiable as law enforcement because the sound of a police siren is heard moments before Brown’s car comes into view, driving westbound on Pine Street. Seconds later, Officer Peterson’s Crown Victoria comes into view, and his blue emergency lights are visible.

During the course of Brown’s attempt to flee law enforcement, chaos ensues as pedestrians run to safety, drivers jump out of their cars to flee, and other drivers back up their cars into oncoming traffic to avoid the melee.

### **2. Dispatch Recordings**

According to the dispatch recordings, around 7:06 p.m., Sgt. Maguire reported a “reckless driver” who is “wrecking into every car here.” Less than thirty seconds later, he updated that “she is turning around, going opposite the lane of traffic. She’s crashing into every car. We might have to take lethal force.” A few seconds later, the officer stated, “She’s running people over. We’ve got shots fired.”

## **C. Medical Examiner’s Report**

The medical examiner found that Brown had five gunshot wounds: a perforating wound to the left lateral chest; a perforating gunshot wound to the left lower chest; a penetrating wound to the left forearm; a penetrating wound to the right hip; and a perforating gunshot wound to the left thigh. The coroner ruled the cause of death was “multiple gunshot wounds” and manner of death “homicide.”

The toxicology report indicates that methamphetamine (0.49 mg/L) and amphetamine (.03 mg/L) were present in her blood. Dr. Luke Rodda, Chief Forensic Toxicologist and Director of the Forensic Laboratory Division for the City and County of San Francisco, explained that Brown was under the influence of methamphetamine at the time of her death, which would have affected her mental state and psychomotor behavior. He reported that methamphetamine typically causes the following behavior: erratic decisions, thoughts, and actions; paranoia; delusions; panic; hyper-alertness; aggressiveness; forgetfulness; euphoria or fatigue (depending on whether the amount of methamphetamine in her blood was rising or falling); and impaired judgment and perceptions. According to Dr. Rodda, it is unknown whether the drug distorts hearing or vision, but it possibly could have caused Brown to interpret an event—such as officers approaching her car—through a panicked or paranoid lens, causing her to take desperate, erratic and dangerous actions.

#### **D. Officer Statements**

##### **1. Officer Donn Peterson**

Officer Peterson, who has worked for SFPD since December 2007, reported that on the day of the incident, they received information from a confidential source that there was a stolen dark blue Jetta at the Chevron gas station at Van Ness Ave. and Pine St. He, Sgt. Maguire and Officer Tursi—all wearing plainclothes—drove there in an unmarked Crown Victoria. When they arrived, they saw the Jetta in the back of the Chevron, which they approached head-on. Sgt. Maguire and Officer Tursi got out, identified themselves as police, and told her to stop the vehicle. At the same time, Officer Peterson flipped his visor down, turned on his police lights, and hit the siren. Brown, however, did not comply. Instead, she drove forward, then reversed into a post, and drove out of the parking lot.

Officer Peterson reported that he lost sight of the Jetta, but heard a crash. He followed the sound onto Pine Street, and parked his car to follow on foot. He saw the Jetta slamming into numerous parked cars near Franklin St., and heard either Officer Tursi or Sgt. Maguire shout commands. Brown stopped, backed up, and started driving eastbound against oncoming traffic. Officer Peterson had to jump out of the way multiple times to avoid being run over. Despite repeated commands to her to stop, she continued to drive recklessly, hitting cars. Officer Peterson reported that he thought she was going to kill somebody, and that she was “not going to stop for anything.”

Officer Peterson chased after Brown on the sidewalk when he heard the engine “revving.” He was on the right rear passenger side when Officer Tursi (and possibly also Sgt. Maguire),

who were by the front passenger window, used lethal force. He was not sure how many shots were fired, but only recalled that the Jetta stopped. The officers then tried to render aid.

Officer Peterson did not recall if he had his gun out, but stated that Sgt. Maguire and Officer Tursi were in a better position to fire their weapons. He opined that they took “every step necessary” to get her to stop the vehicle, and that it was appropriate to use lethal force.

## 2. Officer Michael Tursi

Officer Tursi, who has worked for SFPD since 2006, stated that he had received a phone call from a confidential source reporting that a woman driving a dark blue stolen Volkswagen was at the Chevron at Van Ness and Pine Street. Five minutes later, he, Officer Peterson, and Sgt. Maguire were headed to the gas station. When they arrived, they saw a dark blue Jetta near the back. As the officers approached the Jetta, he and Sgt. Maguire got out of their car, and Sgt. Maguire yelled, “Police, stop the car!” When Brown heard this, she reversed and made a three-point turn, hitting the gas station kiosk with her right rear bumper.

Officer Tursi ran up to the front passenger door, opened it, and yelled, “Police!” Brown, however, put the car into drive and drove onto Pine Street, causing the door to slam shut. Brown drove to the far south lane, and attempted to drive between a parked car and the car in Lane 1, hitting them both. Officer Tursi took out his gun and chased after her as she sped west towards Franklin St. Before she reached Franklin St., she reversed. Officer Tursi ran up to the driver’s window and attempted to break the window with the butt of his weapon, but was unsuccessful. Brown pulled forward, struck another car, and then drove east on Pine St.

Officer Tursi continued to chase Brown on foot by running down Pine St. He saw Sgt. Maguire move to the sidewalk to avoid being struck by Brown, who was again trying to drive in the space between a parked car and an occupied car in Lane 1. Officer Tursi heard Sgt. Maguire broadcast that they may have to use lethal force. He and Maguire continued to yell at Brown to stop and turn the car off, but she continued to disregard their commands. Because he believed they had exhausted all their options and because she continued to pose a threat, Officer Tursi fired his gun at her through the front passenger side window. He did not remember how many times he fired his weapon. Brown made a three point turn and drove forward about ten feet. Officer Tursi again ran to the front passenger side window and ordered Brown to show her hands. When he heard the engine rev loudly and it became apparent that Brown was attempting to flee again, he fired a second round of shots through the front passenger window. The car then came to a stop. Officer Tursi believed someone else fired his weapon too, but did not know who it was.

## 3. Sergeant Tom Maguire

Sgt. Maguire, who has worked for SFPD since June of 2005, reported that Officer Tursi had received a tip from a source that a woman driving a stolen blue Volkswagen Jetta was at the Chevron gas station at Van Ness Ave. and Pine St. Prior to arriving, Sgt. Maguire ran the license plate, and learned that the owner was a rental car company and that it was not reported stolen. Sgt. Maguire believed, however, that it may be a Zipcar, and in his experience, there is often a



delay in reporting stolen Zipcars. The officers decided that they should attempt to make consensual contact with the female driver of the Jetta.

According to Sgt. Maguire, when they first attempted contact with Brown, he and Officer Tursi had their badges displayed. Brown, upon seeing them get out of a Crown Victoria, began to make, “wild, erratic, and dangerous” maneuvers with her car, backing into the Chevron kiosk. Sgt. Maguire yelled, “Police! Stop the car!” several times but Brown sped off onto Pine Street. Sgt. Maguire chased her on foot as she crashed into several cars—both parked as well as moving and occupied. When Sgt. Maguire caught up to her on Pine St. close to Franklin St., he saw that Brown was on the sidewalk with her car perpendicular to Pine St. Maguire ran up to the driver’s side door to open the door, but it was locked and the window was rolled up. He had to jump out of the way to avoid being hit as she drove forward, smashed into a car, and then drove the wrong-way on Pine St.

Upon seeing Brown erratically do a three-point turn to drive into oncoming traffic, Sgt. Maguire thought she was going to kill someone, and realized that lethal force might be necessary. He radioed dispatch to that effect, and warned Brown that they might have to shoot her. In particular, Sgt. Maguire was concerned that Brown was going to drive to Van Ness Ave., where there were considerably more people present.

Sgt. Maguire reported that Officer Tursi fired twice through the passenger window. Sgt. Maguire ran to the passenger side and yelled at Brown, who was fumbling with her gear shift, to stop. When he was about two to three feet away, he fired at least once. Brown made a “jolting back and forth movement” and then “slumped” forward. Officers Tursi and Peterson took her out of the car and began rendering first aid, while Sgt. Maguire radioed additional calls for assistance.

According to Sgt. Maguire, they had no choice but to use lethal force. He opined that Brown was in a “psychosis” because she was “hell-bent” on getting away from the police and “not stopping for anything else in her way.”

### **III. LEGAL STANDARD**

The question presented is whether the officers committed a criminal act in shooting and killing Brown. Possible criminal charges against an officer involved in a fatal shooting include murder and voluntary manslaughter. In order to charge an officer with any of these crimes, the prosecutor must be satisfied that the evidence will show beyond a reasonable doubt that no legal justifications existed for the officer’s actions. When an act is legally justified, a person is not criminally liable even though the act would otherwise constitute a crime. Here, the relevant legal justification offered by the officers is that they were acting in self-defense and/or in defense of others.

California law permits any individual to use deadly force “[w]hen resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.” Cal. Pen. Code, § 197; *see also Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333. Specifically, self-defense or defense of others serves as a complete defense to murder and to voluntary

manslaughter so long as the person (1) subjectively believed in the need to resort to force in order to avert a threat of imminent and great bodily injury, and (2) his perceptions and actions were objectively reasonable under the circumstances. See *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *People v. Viramontes* (2001) 93 Cal. App. 4<sup>th</sup> 1256, 1262.

The subjective prong of the self-defense standard examines the person's belief in the need to use force. The objective component of self-defense asks what a reasonable person would have done in their position. *People v. Humphrey* (1996) 13 Cal.4th at 1082-83. The reasonable person is an abstract individual of ordinary mental and physical capacity who is as prudent and careful as any situation would require him to be. *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519. In making the determination as to whether an officer's conduct was objectively reasonable, one must consider all the "facts and circumstances . . . in determining whether the defendant acted in a manner in which a reasonable man would act in protecting his own life or bodily safety." *People v. Humphrey* (1996) 13 Cal.4th at 1083. Self-defense law "grants a reasonable margin within which one may err on the side of his own safety, and so long as he is found to have done so reasonably, no abuse of the right of self-defense should be found to have occurred." *People v. Ross* (2007) 155 Cal.App.4th 1033, 1057.

#### IV. LEGAL ANALYSIS<sup>2</sup>

Here, Officer Tursi and Sgt. Maguire articulated their belief that Brown posed an imminent threat of great bodily harm to others, so the question turns on whether their belief was objectively reasonable. Cars can be "deadly weapons" capable of force likely to produce great bodily injury. *People v. Finney*, 110 Cal. App. 3d 705 (1980) (affirming convictions for assault of an officer with a "deadly weapon" where defendant rammed his car into officers' patrol cars during car chase). In her attempt to flee law enforcement, Brown used her car to wreak havoc —e.g., she nearly ran over a motorcyclist; rammed her car into several occupied vehicles; drove the wrong way on a one-way street; drove on the sidewalk without regard to nearby pedestrians and smashed the back of her car into a building; and caused officers to jump out of her way several times to avoid being hit. The officers attempted to stop Brown with less than lethal methods by chasing after her and giving her multiple commands. Brown, however, disregarded these attempts and drove, against traffic, towards Van Ness Ave., a busy thoroughfare with significantly more traffic and pedestrians than Pine St. She could reasonably be perceived as presenting an imminent threat at the point the officers shot because she continued to ignore the officers' commands to stop and was revving the engine, indicating a potential intent to continue her dangerous, reckless course of conduct.

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<sup>2</sup> As mentioned earlier, this analysis exclusively focuses on criminal liability and not whether the officers' actions were within departmental policy and training. To the extent it is pertinent to our analysis under criminal law, it is worth noting that although the current use-of-force policy prohibits shooting at a moving vehicle unless the driver "poses an immediate threat of death or serious bodily injury to the public or an officer by means other than the vehicle," the relevant policy at the time permitted an officer to shoot at the operator of a moving vehicle "in defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury." Compare SFPD General Order 5.01, Use of Force § VI.G.2.e (effective, Dec. 21, 2016) with SFPD General Order 5.02, Use of Firearms § I.C.5.c.3 (effective March 16, 2011 through December 20, 2016).

Importantly, the officers were not alone in their belief that Brown's driving posed a danger to the officers and others. Omar P. reported that when Brown initially fled from officers at the gas station, the officers had to jump out of the way to avoid being hit. A motorcyclist, Nicholas P., reported that he was almost hit by Brown on her first pass down Pine St., and when he saw her driving the wrong-way on Pine St. and realized he was in danger again, he abandoned his motorcycle and ran to safety. Several civilian witnesses also described how they feared for their lives. Many of the witnesses heard the officers yell commands at Brown to stop, but reported that Brown continued to try to escape. At least one witness, Nelson E., opined that the officers had no choice but to use lethal force. Given the danger she posed with her erratic driving, the fact that she did not respond to any less than lethal options, and the fact that she was attempting to reach Van Ness Ave. where there was considerably more traffic and greater pedestrians, we cannot prove beyond a reasonable doubt that the officers were not justified in using lethal force.

## **V. CONCLUSION**

For the reasons discussed above, we conclude that we cannot prove beyond a reasonable doubt that the officers were not justified in acting in self-defense or defense of others. Therefore, the District Attorney declines to file any criminal charges in this matter.