

REPORT ON THE OFFICER-INVOLVED SHOOTING DEATH OF  
MARIO WOODS



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INDEPENDENT INVESTIGATIONS BUREAU  
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## **TABLE OF CONTENTS**

I.	INTRODUCTION .....
II.	FACTUAL SUMMARY .....
III.	LEGAL STANDARD .....
IV.	LEGAL ANALYSIS .....
V.	CONCLUSION.....

## **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 Mario Woods on December 2, 2015. The SFDA's Independent Investigations Bureau (IIB) reviewed all evidence previously collected by the San Francisco Police Department (SFPD) and SFDA, and also conducted its own, independent follow-up investigation. IIB focused exclusively on the question of whether the involved officers committed a crime. IIB did not examine collateral issues such as whether the officers complied with internal SFPD policies and procedures, received adequate training, used competent tactics, or any other issues that may give rise to civil liability. This report should not be interpreted as expressing any opinions on non-criminal matters.

On the afternoon of December 2, 2015, SFPD officers were searching for a man who had reportedly stabbed another person with a knife. Police dispatchers broadcast a description of the suspect. Dispatchers also informed officers the stabbing victim had sought emergency medical care. Shortly afterwards, an officer broadcast a witness report that the suspect may still be in the area of the stabbing.

Soon thereafter, uniformed Officer Charles August (Star No. 1119) and his partner, Officer Brandon Thompson (Star No. 153), saw a man matching the suspect's description (later identified as Mario Woods) standing on a street corner and contacted him. Woods pulled out a knife and began walking away from the officers. At least one of the officers ordered Woods to drop the knife.

At least ten other officers arrived, surrounding Woods in a semi-circle with Woods' back to a building. The officers attempted to gain control of Woods by commanding him to "drop the knife," and by using less-than-lethal force, including striking Woods with bean bag shots and foam baton rounds, and deploying pepper spray. At one point, Woods crouched down, but he eventually stood up -- with the knife still clutched in his right hand. He began to walk away once more, in the direction of several civilians standing on the sidewalk. In response, Officer August, who was the closest officer to Woods, walked backwards to block Woods from gaining access to the citizens. Woods, still with a knife in his hand, continued to advance forward, closing the distance between Officer August and him. Officer August and four other officers -- Winston Seto (Star No. 2370), Antonio Santos (Star No. 2474), Nicholas Cuevas (Star No. 2295), and Scott Phillips (Star No. 1707) -- collectively fired 26 rounds at Woods. Woods died on scene from his gunshot wounds.

Sgt. Pomatto, a supervisor in the SFPD Training Academy, reviewed the videos and concluded the officers acted in accordance with their training at the time. IIB also consulted with Charles J. Key, a nationally recognized, court-qualified use-of-force expert who has testified on behalf of the federal government in excessive force prosecutions against law enforcement officers. Key reviewed the videos and opined that the officers acted in accordance with nationally-recognized standards for police tactics. The District Attorney therefore declines to pursue criminal charges against any of the SFPD officers because we cannot prove beyond a reasonable doubt that their actions were not reasonably taken in defense of themselves and others.

## II. FACTUAL SUMMARY

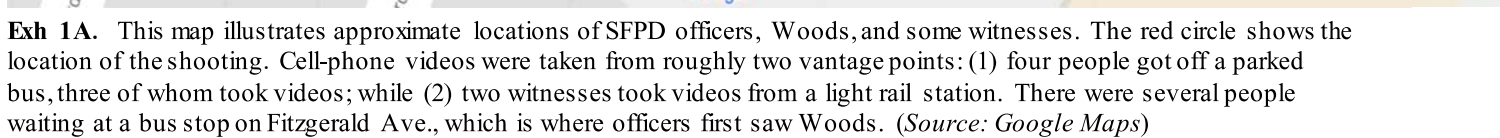
On December 2, 2015, at approximately 3:49 p.m., Marcel S. sought emergency medical services at San Francisco General Hospital for a laceration to his left bicep. Marcel S. reported that an hour earlier he had been in front of his house when a light-skinned man of unknown race wearing a hoodie had stabbed him. (Marcel S. later positively identified his assailant as Woods when shown a photographic line-up.) This information was relayed to SFPD dispatchers, who broadcast the report to officers in the Bayview District. Dispatchers did not provide any details of the severity of Marcel S.'s injury. Officers responded to Marcel S.'s neighborhood and set up a perimeter to search for the assailant. At approximately 4:18 p.m., two women flagged down officers and reported that the assailant was still in the area. They provided the following description, which was broadcast over the radio: a black male with a backpack, 5'8", wearing tan pants, a black baseball cap, and a black hoodie or jacket.<sup>1</sup>

Officer August and his partner, Officer Thompson, were the first officers to contact Woods. Officer Thompson was driving a marked patrol car southbound on 3<sup>rd</sup> St. when Officer August, seated in the front passenger seat, spotted a person matching the description, later identified as Mario Woods, standing by a bus stop on the corner of Keith St. and Fitzgerald Ave. *See Exhs. 1A and 1B.* This location is less than half a mile from where Woods stabbed Marcel S. Officer Thompson executed a U-turn, drove north on 3<sup>rd</sup> St., and then parked on Fitzgerald Ave. on the corner with Keith St. where Woods was standing. Officer August made initial contact with Woods, who immediately brandished a knife and started walking away from Officer August on Keith Street towards 3<sup>rd</sup> St. Officer August followed Woods, while Officer Thompson trailed behind the duo, calling for back-up on his radio.

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<sup>1</sup> A description was broadcast at least three times with some variances, but these details remained unchanged: the color of his pants, baseball cap, and jacket/hoodie; the presence of a backpack; and his height, race and gender.







**Exh. 1B.** Street-level view of the incident. The white car in the above picture is parked in approximately the same location as the Muni Bus on the day of the incident. The blue arrow shows the approximate location of the shooting. (Source: Google Maps)

SFPD's encounter with Woods can be divided into three parts: (1) Officers Thompson and August's initial contact with Woods; (2) the officers' attempt to contain Woods by surrounding him in a semi-circle and using less than lethal force; and (3) Woods' attempt to walk away and the officers' use of lethal force. The episode developed quickly; less than two minutes elapsed from the time of initial contact to the use of lethal force.

#### **A. Officers Thompson and August Approach Woods**

There are primarily four sources of evidence regarding this portion of the incident: (1) the statements of Officers Thompson and August; (2) civilian witness statements; (3) audio and video footage from buses; and (4) radio dispatch recordings.

##### **1. Officers August and Thompson's Statements**

Officer August reported that he and his partner were driving down 3<sup>rd</sup> Street when he saw a man standing on the corner who matched the description of the stabbing suspect. He told Officer Thompson to do a U-turn, and they "rolled up slow" to the suspect. Officer August, who sat in the front passenger seat, claimed that his window was down, and that when they pulled up to the corner, Woods looked over and announced, "I'm not goin' with you." According to Officer August, when he got out of the car, Woods pulled out a "long kitchen knife" with his right hand, holding it at his side. Officer Thompson reported that Woods said something to the effect of "you not taking me today," while "lifting his pants and ha[ving] an aggressive and challenging demeanor." In response, Officer August said he drew his gun and told Woods to drop the knife.

According to both officers, Woods responded something to the effect that the officers were going to have to “squeeze” the triggers of their guns.<sup>2</sup>

Woods then began walking away from them on Keith St. headed towards 3<sup>rd</sup> St. Officer August reported that he repeatedly told Woods to drop the knife, and Woods was “yellin’ back” at him: “You’re gonna have to fuckin’ shoot me. You’re gonna have to fuckin’ shoot me.” While Officer August was engaged with Woods, Officer Thompson said he was broadcasting over SFPD radio they were contacting a possible assailant who had a knife and was refusing to drop it.

## **2. Civilian Witness Statements**

Reuben R. was waiting for the bus on the corner of Fitzgerald Ave. and Keith St. when he noticed Officer August order Woods to drop the knife. Reuben R. said he turned around and saw Woods with a knife in one hand and a soda can in the other. Officer August approached Woods, gun pointed, and told Woods to drop the knife. Woods responded that he was not going to drop the knife. According to Reuben R., Woods then folded the knife and put it in his pocket, and tried to walk away. Officer Thompson then came around the patrol car, without his gun, and Woods pulled out his knife again, which caused Officer Thompson to unholster his gun and point it at Woods. Other officers arrived, and Woods “stop[p]ed in his tracks” and put down the soda can. Reuben R. reported Woods did not say anything after he initially said he was not going to drop the knife.

Robert T. also witnessed the initial interaction involving Woods and the two officers. He reported the officers told him to “drop the knife” and Woods “talked back to the officers” and walked away from them.

## **3. Muni Bus Footage**

Muni buses are equipped with multiple cameras which record audio and video footage from different angles, both within and directly outside the bus. Two Muni buses capture audio and video footage of some of the initial contact between the two officers and Woods. The surveillance system for Muni Bus #8633 shows Woods prior to contact with SFPD officers. It captures Woods on Fitzgerald Ave., standing within several feet of several people who were waiting at a bus stop. Woods is wearing tan pants, a large black jacket, and a backpack on his back. He holds a red Coke can in his right hand, and no knife is visible. *See Exh. 2*

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<sup>2</sup> Officer Thompson heard, “You better squeeze that motherfucker and kill me,” while Officer August reported, “You’re gonna have to squeeze that.”



**Exh. 2:** Woods on the corner of Fitzgerald and Keith Streets moments before Officers August and Thompson arrive. Woods is the person on the right holding a red coke can in his right hand. (Source: Muni Bus #8633)

The surveillance video also shows Officer August as he gets out of the front passenger seat of the patrol car and heads towards Woods, who begins walking away on Keith St. towards 3<sup>rd</sup> St.

Muni Bus #8614 traveled northbound on 3<sup>rd</sup> Street, turned onto Keith St., and parked on the corner close to Fitzgerald Ave. See Exh 1A. This bus remained parked on that corner for the duration of the incident, and three passengers eventually disembarked and filmed part of the incident. Bus surveillance video captures Officer August walking towards Woods, gun raised, while Woods walks towards 3<sup>rd</sup> St. Officer Thompson tails Officer August, radioing dispatch. At one point, Woods appears to turn around and say something to Officer August, and the Coke can is now in Woods' left hand. The video does not show Woods shifting the can from his right to left hand. Woods' right hand, however, is not visible. See Exh. 3. Woods' progress stops with the arrival of other officers on Keith St from 3<sup>rd</sup> St.





**Exh. 3:** Woods walking away from Officer August on Keith St towards 3<sup>rd</sup> St. It appears that Woods has moved the Coke can to his left hand. (Source: Muni Bus #8614)

The videos from both buses capture the officers' commands to Woods to "drop the knife." IIB sent the videos to a sound engineer to determine whether they captured any of Woods' statements. John Polito, Founder and Chief Engineer of Audio Mechanics, analyzed the videos, and reported that Woods said, "I'm not [unintelligible]." Although Polito did not capture Woods telling the officers to "squeeze" their guns or making other allusions to suicide-by-cop, Polito could not rule out that Woods said anything to that effect. Put differently, it is possible that Woods made other statements that Polito could not discern.

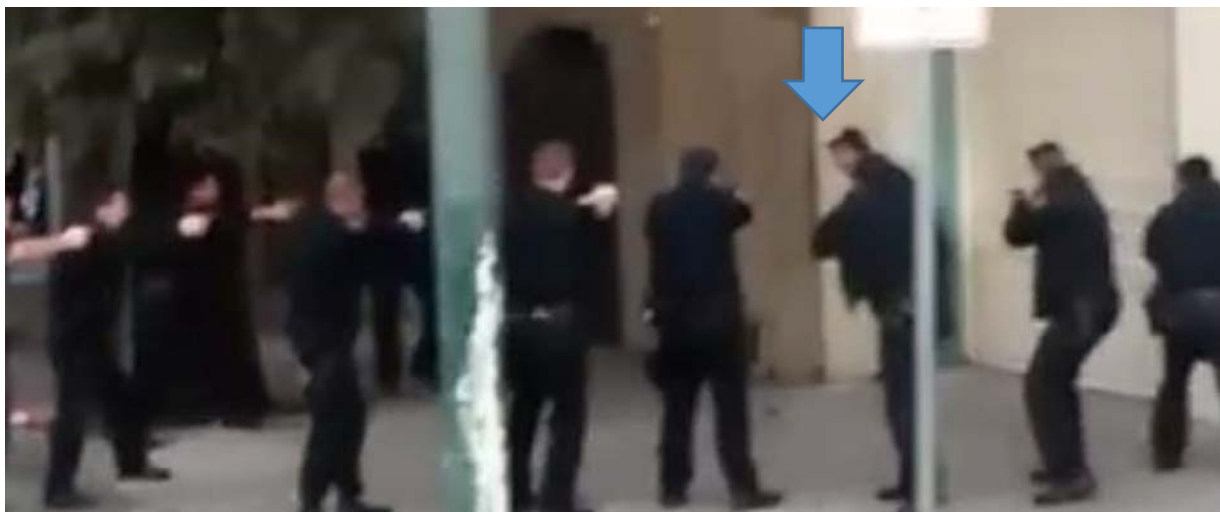
#### **4. Dispatch Recordings**

Dispatch recordings confirmed Officer Thompson's report that he radioed for back-up assistance and, in real-time, reported that Woods had a knife. At 4:33 p.m., Officer Thompson broadcast that at Keith and Fitzgerald Streets, Woods "ha[d] a knife" and was "coming at my partner." He requested back-up assistance and "ERIW" – Extended Range Impact Weapon, which is a less

than lethal force option. Within a minute, Officer Thompson radioed that Woods had a “knife in his right hand” and was “pointing [it] at my partner.”<sup>3</sup>

### **B. Less Lethal Force Deployed**

Other officers soon arrived, and ultimately surrounded Woods in a semi-circle on Keith St. with Woods backed up against a building. *See* Exh. 4. These officers include the ones who, with Officer August, ultimately used lethal force: Officers Santos, Cuevas, Philips, and Seto; and the officers who used less than lethal force – Officers Jennifer Traw (Star No. 566), Shaun Navarro (Star No. 1435), and Jesse Ortiz (Star No. 1131). At least nine other officers were present for at least part of the incident, but it is unclear how many of them were part of the semi-circle surrounding Woods.<sup>4</sup> These other officers did not use any weapon during the incident.



**Exh. 4:** Woods surrounded by a semi-circle of officers. The blue arrow indicates Woods’ position.  
(Source: Cell-Phone Video from Christian H.)

In addition to pepper spray, officers used two other types of less than lethal force against Woods. SFPD is equipped with two kinds of ERIW– Extended Range Impact Weapon – both of which were deployed in this case. As the name suggests, an ERIW is a munitions delivery system designed to deliver force similar to an impact weapon, such as a baton, but from an extended distance. The “Super Sock” ERIW is a Remington 870 12-gauge shotgun that fires “super sock” bean bags. The Tactical 40 millimeter ERIW is launched from a rifle, and it fires foam baton munitions. The 40 millimeter foam baton rounds are heavier than a bean bag, and therefore deliver a more forceful impact.

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<sup>3</sup> Officer Thompson never radioed that Woods had said, “You’re going to have to squeeze that motherfucker and kill me” or made any other suicide-by-cop type statements. Officer Thompson wrote a police report on the day of the incident that did not include these kind of statements, either. IIB was unable to ask Ofc. Thompson about these omissions because, like many SFPD officers we contacted, he refused to cooperate with IIB’s investigation. We were therefore unable to get an explanation for why he had failed to alert all the other officers that it may be a suicide-by-cop situation.

<sup>4</sup> Although we know the names of many officers who were on scene, we are unable to confirm the names of all the officers who were present because most SFPD officers we contacted refused to cooperate with IIB’s investigation.

The incident unfolded rapidly. The evidence does not establish with certainty the sequence of less-than-lethal force deployed. Officers could not recall precisely when each kind of ERIW was fired, and when the pepper spray was used. What is established, however, is that officers fired four rounds of foam baton and two rounds of bean bags, and deployed pepper spray once before officers used lethal force.

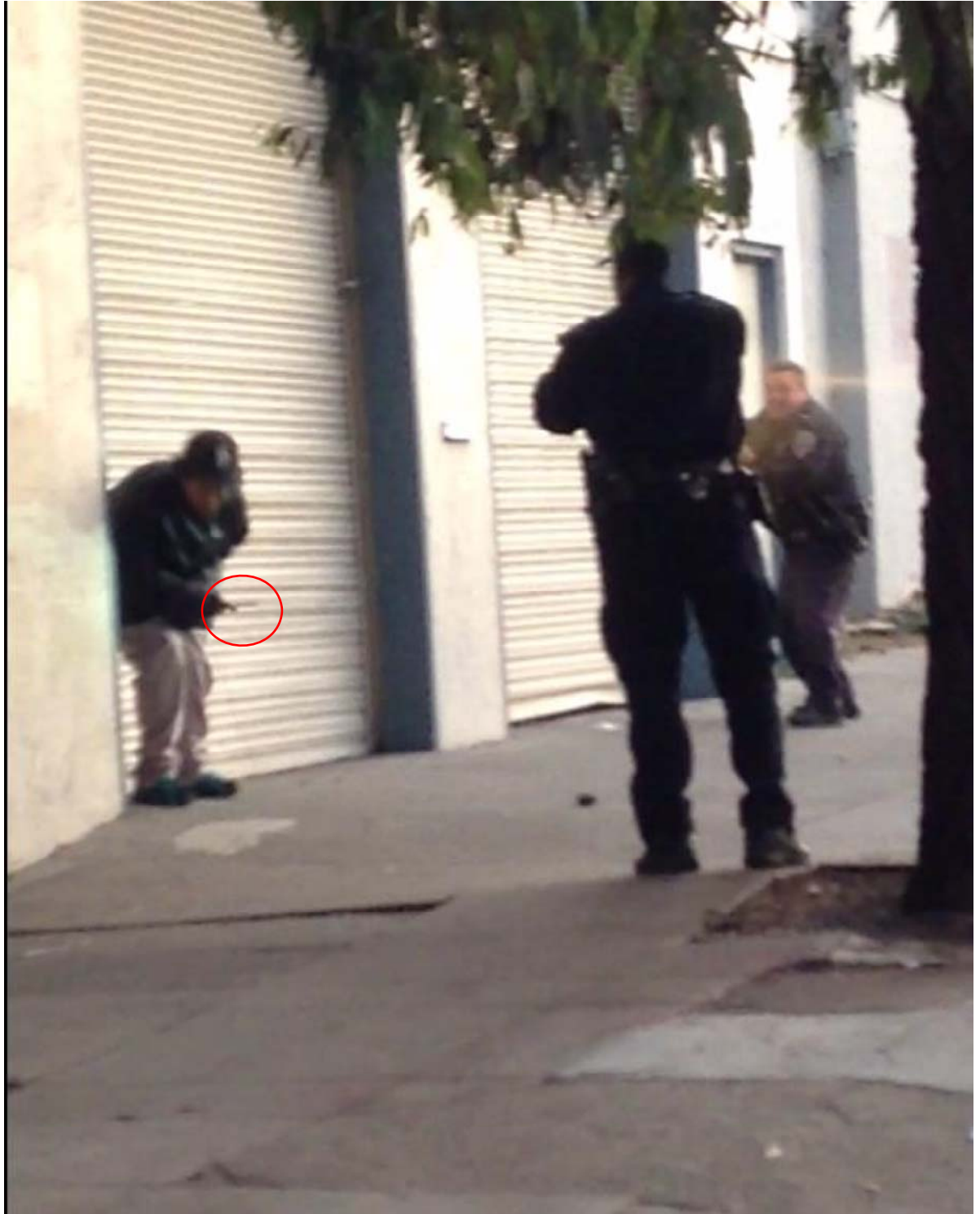
The primary sources of evidence regarding this portion of the incident are: (1) video recordings; (2) dispatch recordings; (3) officer statements; and (4) civilian witness statements.

### **1. Dispatch Recordings**

Dispatch recordings provide a contemporaneous account of the less-than-lethal deployment. A supervisor, Sgt. Hugh Hall, ordered the deployment of ERIW. Officer Thompson radioed that an ERIW had been deployed. Sgt. Hall then said, "Time and distance, time and distance." Officer Thompson reported that ERIW had been deployed four times but Woods was "refusing to drop the knife.... He's still got the knife in his right hand; refusing to drop the knife. He's refusing orders."

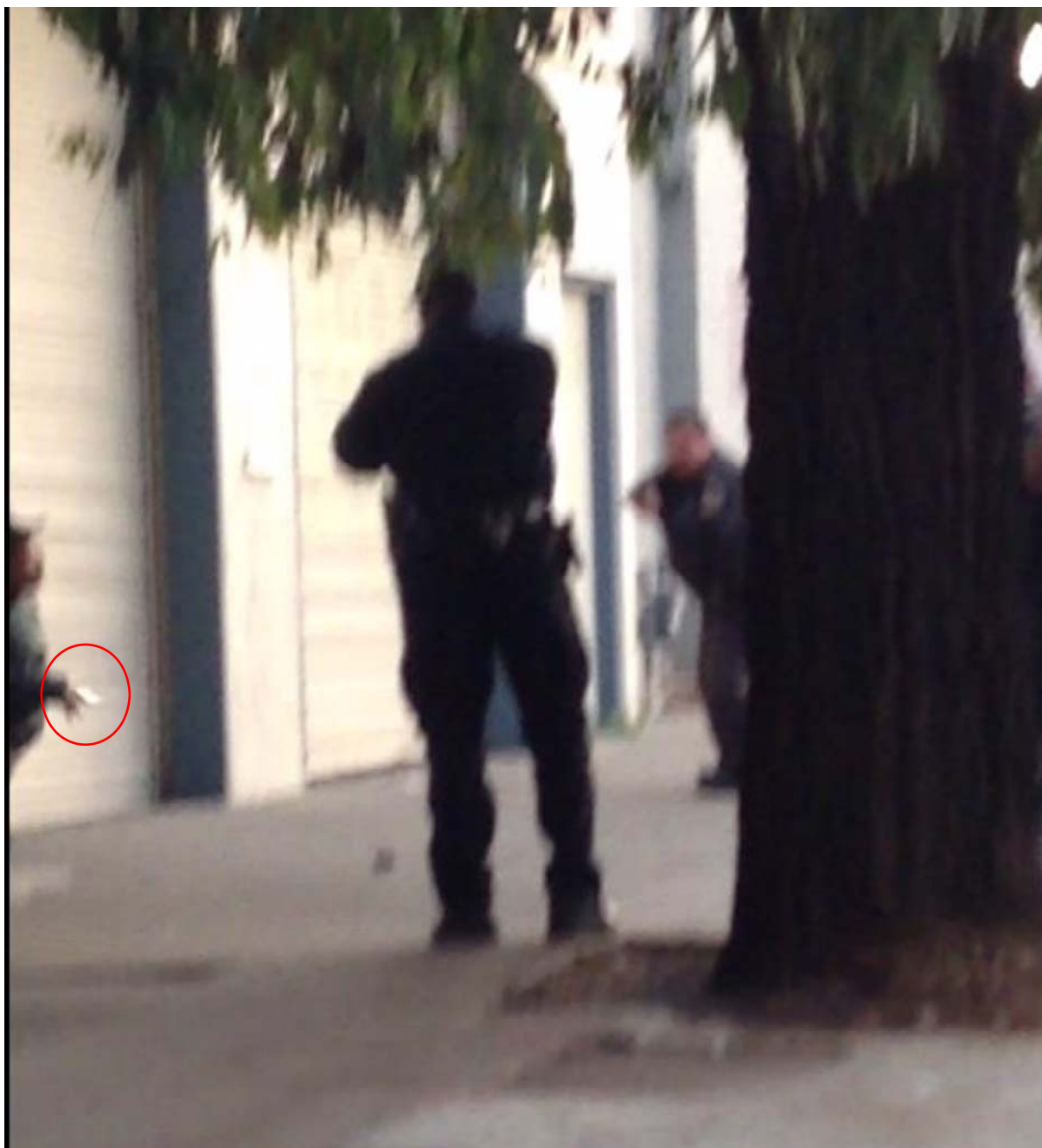
### **2. Video Recordings**

Only one of the buses, the bus parked on Keith St., was positioned to capture the incident. Unfortunately, it did not capture quality video of this portion of the incident because the scene was too far from the camera's view. However, the bus surveillance system audio captured multiple commands – from the officers and from at least one civilian – to Woods to drop the knife. A civilian cell-phone video captured Woods gripping a knife in his right hand. *See Exhs. 5A and 5B.*



**Exh 5A:** Knife in Woods' right hand, the blade parallel to the ground. (Source: *online cell-phone video*)





**Exh 5B:** Knife glinting in the sun in Woods' right hand. (Source: online cell-phone video)

### **3. Civilian Witness Statements**

Andreas H. got off the bus on the corner of Fitzgerald Ave. and Keith St. and filmed part of the incident. He described seeing Woods run away from Officers Thompson and August with a "silver thing" in his hand. He heard someone later identify it as a knife. According to Andreas H., officers gave Woods multiple commands to drop the knife, but Woods "didn't want to put it down." After he heard "pops" which caused Woods to kneel down, Andreas H. thought Woods was finally going to put down the knife. He described Woods as looking "pretty scared," but

said he “couldn’t really see” Woods. According to Andreas H., Woods did not appear to look like he was “squa[r]ing off” with the officers, but Woods also did not drop the knife.

Reuben R. reported that when the other officers arrived, some sort of shots were fired, causing Woods to fall. According to Reuben R., officers repeatedly told him to put down the knife but Woods did not comply. Reuben R. saw an officer arrive with the bean-bag shots, and he also saw an officer pepper-spray Woods. He described Woods as appearing “disoriented” and he did not seem to “know[] where he was going.” Reuben R. did not hear Woods say anything after other officers arrived.

#### **4. Officer Statements**

##### **i. ERIW – four rounds of 40 mm foam baton rounds**

**Officer Navarro** was among the first officers to arrive at the scene. He reported he and his partner, Officer Seto, were driving when they heard over the radio that officers had the stabbing suspect and needed an ERIW. Officer Seto drove to that location. When Officer Navarro looked to his right, he saw Officer August, with his gun drawn, following Woods, who held a knife pointed down. Woods was about 20 feet away from their car. Officer Navarro got out of the car and pulled out from the car a 40 millimeter ERIW that fires foam baton rounds. Officer Navarro ordered Woods to “drop the weapon.” When Woods did not comply, Officer Navarro delivered one 40 millimeter round to Woods’ thigh. Woods then turned around and started walking back in the opposite direction, towards Fitzgerald Ave. Officer Navarro followed him as he reloaded the ERIW, and fired another round that struck the lower half of Woods’ body. Because Woods did not drop his knife, Officer Navarro said he ultimately fired two more rounds, aiming at Woods below the waist in accordance with his training. Officer Navarro reported that he hit Woods all four times. Officer Navarro recalled that at some point after the second round, it appeared that Woods bent over and kneeled, but he eventually got up and began “limping” away. Because Officer Navarro had no more rounds left, Officer Paul Wilgus (Star No. 2036) left to retrieve more rounds. While Officer Navarro was waiting for his return, Officer Navarro heard the other gunshots. Officer Navarro said he was “definitely scared” and at one point, feared that Woods was going to throw the knife at him. Because the 40 millimeter rounds, the pepper spray, and the bean bag shots were unsuccessful in forcing Woods to comply, Officer Navarro suspected that lethal force might have to be used. Officer Navarro did not recall Woods saying anything at all.

##### **ii. Pepper Spray**

**Officer Ortiz** said when he and his partner, Officer Eddie Martinez (Star No. 4190) arrived on scene, multiple officers were already there. He saw Woods (whom he recognized from prior incidents) with a knife in his hand, standing in the center of a semi-circle of police officers. He described Woods’ pupils as dilated, his eyes as “bulging out,” and his face as having “that look of rage.” Officer Ortiz noticed officers had already used at least two rounds with the ERIW. As he got closer, he noticed a lull in the action where nobody was doing anything, and he assumed officers had exhausted their less than lethal rounds. He holstered his gun and pulled out his pepper spray. According to Officer Ortiz, he sprayed Woods in the face for two to four seconds with no apparent effect.

iii. ERIW- “Super Sock” Bean Bag

**Officer Traw** grabbed her “Super Sock” ERIW – which fires bean bag rounds – when she arrived. She estimated there were already six to eight officers surrounding Woods when she got there. She heard multiple commands to “get on the ground” and “drop the knife.” After the pepper spray was used, she fired twice at Woods, aiming below Woods’ waist in accordance with her training. The shots appeared to have no effect on him: he “ben[t] over a little bit but it didn’t really seem to affect anything else.” After being hit, Woods began walking northbound on Keith St. towards Officer August. Officer Traw believed Woods had to be “contained” because he was dangerous and posed “harm” to other people.

**C. Lethal Force Used**

The standoff escalated when Woods began to walk towards Fitzgerald Ave., which was also in the direction where civilians were present. This portion of the incident is best captured by the cellphone videos taken by the witnesses who got off the bus parked on Fitzgerald Ave. *See* Exh. 1A. Three passengers got off the parked bus and video-recorded the incident. Two of the cellphone videos were posted online; the video not posted online does not capture the actual shooting.<sup>5</sup>

The videos posted online show Officer August on the end of the semi-circle closest to Fitzgerald Ave. and to Woods. Officer August began to walk backwards and to his left to cut off Woods’ path. Woods did not stop moving or alter his course but continued forward, and the distance between him and Officer August began to close. Officer August took approximately three steps backwards and to his left before he fired his weapon at Woods. On the cellphone videos, as Woods was walking, one of the videographers can be heard screaming, “Just drop it please!” Just prior to Officer August’s shooting, Woods appears to be walking with his hands down, and the knife is not visible in the video. Both of Woods’ arms are down, suggesting that Woods is not pointing or lunging at anyone with a knife. *See* Exh. 6.

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<sup>5</sup> The SFDA and IIB unsuccessfully attempted to get the original native files of these two videos. The following analysis therefore relies on the publicly available videos.



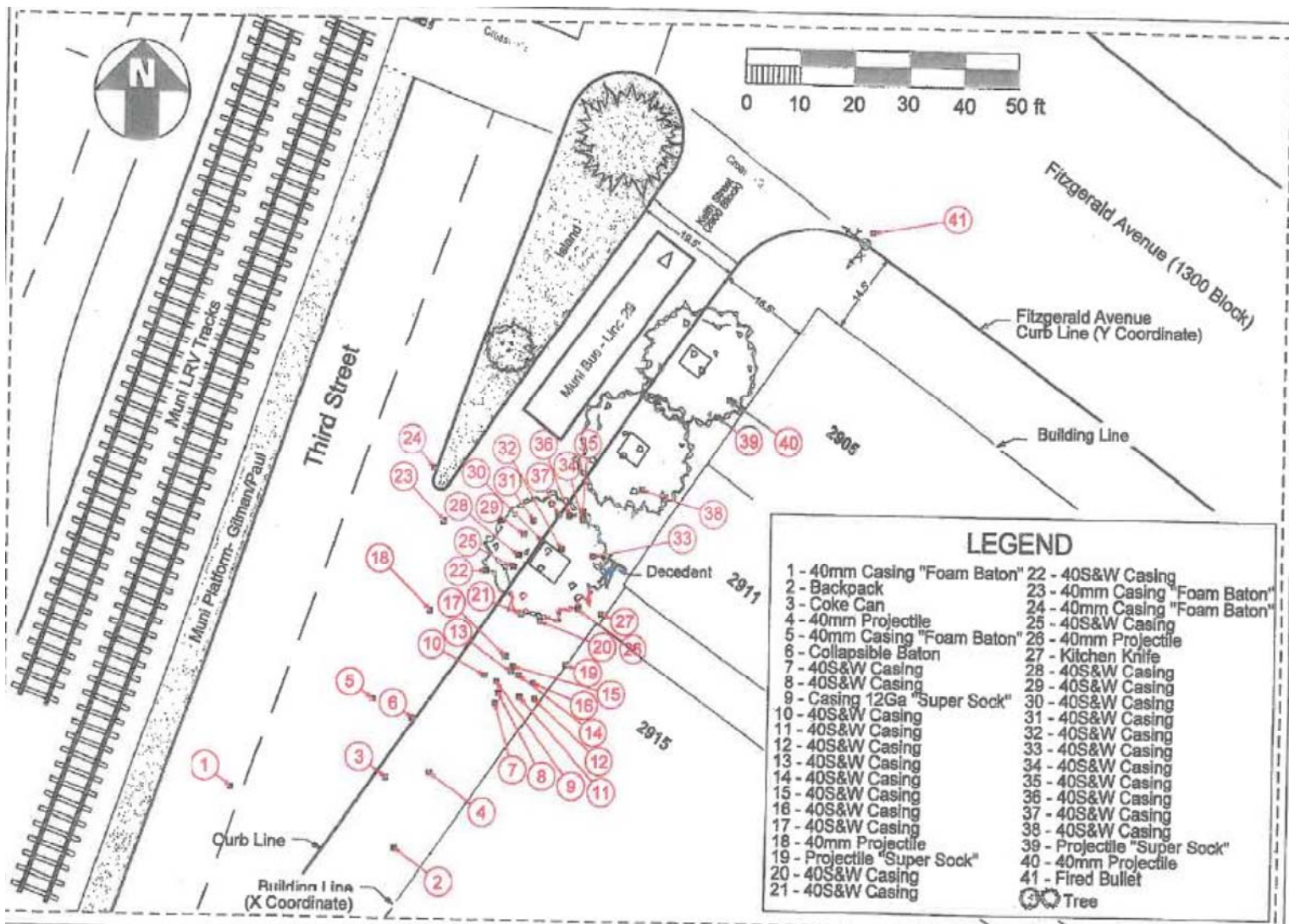
**Exh. 6:** Moments before Officer August fired at Woods. (Source: online cell-phone video)

Almost instantaneously after Officer August first fired, Officers Seto, Cuevas, Phillips, and Santos fired their weapons, too. In total, the officers fired 26 rounds.<sup>6</sup> A knife was recovered on the scene.

SFPD interviewed each of the officers who used lethal force. As discussed below, each officer, in explaining why he fired cited the distance between Woods and Officer August as an important factor, and some of them referenced the “21-foot rule.” By way of context, the genesis of this “rule” was a 1983 article published by Lt. John Tueller, a now-retired firearms instructor with Salt Lake City Police Department, judging how far an individual armed with an edged weapon could attack an officer before the officer had time to unholster his weapon and accurately shoot the assailant. Tueller postulated that the “average healthy adult male” can cover 21 feet in 1.5 seconds, which he further posited is the time it takes to draw, fire, and hit a target at 21 feet. Tueller concluded that an armed attacker 21 feet away is within an officer’s “Danger Zone.” As discussed later, according to Sgt. Pomatto, a trainer with SFPD’s Training Academy, SFPD does not teach the “21-foot rule” as a per se rule, but as a general concept – i.e., SFPD officers are taught that knife-wielding suspects pose a threat at close distances and officers should keep a reasonable distance between themselves and an armed subject.

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<sup>6</sup> Although there are only 25 casings listed in the CSI sketch, the CSI report indicates that the officers fired 26 rounds, which is also consistent with an examination of the officers’ guns.



Exh. 7: Crime Scene Sketch. (Source: SFPD Crime Scene Investigations (CSI))

### 1. Officer Statements

**Officer August** reported he “head[ed] [Woods] off” when Woods began walking in the direction of people waiting at the bus stop. Officer August stated he believed Woods posed a potential danger to the civilians and might take one as a hostage. Officer August believed he was the last line of defense. (As discussed later, video footage confirms that when Officer August began walking backwards and fired, there were no officers between him and the civilians.) Officer August again warned Woods to drop the knife. According to Officer August, Woods responded, “You’re gonna have to do it” and began walking faster towards him, which caused Officer August to walk faster. At that moment, Officer August feared that Woods was going to stab him. Although Woods was not lunging at him and was holding “the knife at his side,” Officer August believed that Woods might lunge at him and stab him. The distance between them – which Officer August estimated to be “a little closer than 10 feet” -- became “too uncomfortable.” Officer August recalled firing twice. (An examination of his gun shows Officer August fired



five times.) According to Officer August, Woods never raised his voice, but kept repeating, “You’re gonna have to shoot me.” Officer August did not believe he could have done anything differently.

**Officer Cuevas** reported he was training a new officer, Officer Phillips, when they heard the call regarding the stabbing suspect. Officer Cuevas reported they were en route to the hospital to get more information from the stabbing victim when he heard Officer Thompson broadcast that the suspect charged an officer twice with a knife and they did not have an ERIW. As Officer Cuevas arrived at the scene, he saw Woods with a knife, surrounded by officers. Officer Cuevas and his trainee parked their car and got out. Officer Cuevas, who stood to Officer August’s right, described Woods as “noncompliant, very animated, moving around a lot” with a knife “gripped in his hand” that he “would not drop ... for anything.” Officer Cuevas reported that he saw Woods’ lips moving, and it looked like Woods was “muttering.” He did not recall Woods saying any distinct words. He described Woods as appearing “angry” and looked like “he was on drugs.” According to Officer Cuevas, less-than-lethal rounds seemed to have no effect on Woods, including a foam baton round that hit his groin. Officer Cuevas recalled Woods began to move towards Officer August, and he feared Woods was going to stab Officer August or break away from the officers and take a civilian as a hostage.<sup>7</sup> According to Officer Cuevas, Woods was armed with a knife, was in direct line with Officer August, and all prior attempts to use less-than-lethal force on him had failed. Officer Cuevas, at that moment, feared for the officers’ and civilians’ safety. When Officer Cuevas heard gunshots, he also fired his weapon. He estimated that he fired between two to four times. (An examination of his gun revealed he fired four times.) Officer Cuevas reported that at the time of gunshots, Woods was approximately 10 feet away from Officer August. According to Officer Cuevas, he was trained that if a suspect is within 21 feet of an officer, a suspect with a knife can injure or kill an officer before the officer has time to pull out his gun and shoot.

**Officer Philips** was a new recruit who had been on patrol for approximately 15 weeks when the incident occurred. He and his training officer, Officer Cuevas, were on their way to the hospital when they happened to see officers surrounding Woods at gunpoint. In his right hand, Woods held a fixed-blade kitchen knife, and multiple officers and bystanders were telling him to drop the knife. Officer Philips pulled out his gun and pointed it at Woods because he was in fear for himself and for others. According to Officer Philips, Woods appeared to be “intoxicated” because he was acting “very unnatural” and appeared to be “mumbling something” which Officer Philips could not hear. Less-than-lethal force was used, but Woods did not comply. Woods began to walk away in the direction of Officer August, who tried to block him because Woods was a suspected violent felon, and therefore was not free to leave. By so moving, Officer August was the only officer between Woods and civilians. Officer Philips saw Woods “walking pretty quickly, closing the distance” towards Officer August, who was “retreating pretty quickly.” Fearing for Officer August’s life, Officer Philips fired his weapon, although he did not know how many times. (An examination of his gun revealed that he fired seven rounds.) Officer Philips estimated that Woods was approximately four or five feet away from Officer

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<sup>7</sup> Officer Cuevas saw the video of the shooting, and said that it differed from his memory of Woods moving directly towards Officer August. After seeing the video, Officer Cuevas said it appeared Officer August “stepped in” Woods’ path. But that difference did not change his belief that officers could not have allowed Woods to “break the perimeter” without imperiling the civilians present on the scene.

August right before he fired. Officer Philips reported learning at SFPD Training Academy that the safe distance to draw one's weapon at a suspect armed with a knife is 21 to 30 feet.

**Officer Santos**, who is on the tactical squad, reported he was on his way back from training when he heard about the stabbing and headed toward the scene. He traveled with his partner, Officer Barnes, and when they arrived, they saw officers surrounding Woods in a semi-circle. Woods had a knife in his right hand. Officer Santos commanded him several times to "drop the fucking knife," warning Woods that he would shoot him if he did not comply. Another officer fired foam baton rounds at Woods two or three times below his waist, striking Woods in the testicles. At one point, Officer Santos believed that Woods was going to surrender because he dropped to his knees, but Woods stood back up. Woods held a knife in right hand, and appeared "very angry." According to Officer Santos, Woods was not saying anything. Officer Traw fired two beanbag rounds at Woods and it had "absolute zero effect" on Woods. Another officer stepped forward and sprayed him with pepper spray, which also did not appear to affect him. Officer Santos believed Woods was then hit with another foam baton munition, with no effect. Officer Santos thought that Woods was under the influence of illegal substances, which prevented the foam baton rounds, bean bag rounds, and pepper spray from taking effect. After the last foam baton shot, Woods walked towards Officer August, "closing" the distance by walking faster than Officer August could pedal backwards. Officer Santos heard the first gunshot, and that was when it "clicked" that Officer August was within a "danger zone." Given the fact that Woods had stabbed someone else and was not surrendering, Officer Santos believed Woods was going to stab Officer August. Officer Santos knew that Woods still had the knife in his hand because he did not see Woods release the knife. Officer Santos believed he then fired his weapon five times. (An examination of Officer Santos' gun confirmed he fired it five times.) Once it appeared Woods was disarmed, Officer Santos approached Woods to provide first aid, and saw a knife directly next to him. Officer Santos stepped on the knife and moved it away so Woods could not grab it.

Officer Santos said, according to his training, anyone with a knife who is within 20 to 30 feet of an officer is in the "danger zone." He estimated that Woods was approximately five to ten feet away from Officer August when shots were fired.

**Officer Seto** said he and his partner, Officer Navarro, responded to the search for a stabbing suspect when he heard Officer Thompson report that they had the suspect and needed an ERIW. He and his partner drove over, and he believed they were the first officers on scene after Officers August and Thompson. Officer August had his gun drawn and pointed at a man who was walking in Officer Seto's direction. The man was holding a knife in his right hand. Officer Navarro grabbed the ERIW, so Officer Seto, in accordance with his training, drew his weapon to be his "lethal cover."<sup>8</sup> They approached Woods and yelled at him to drop the knife. His partner fired foam baton rounds at Woods a total of four to five times, but it did not seem to affect Woods. Officer Seto recalled another officer pepper-spraying Woods, but that also did not seem to affect Woods. Officer Seto said he heard Woods say something to the effect of, "You're going to shoot me", "You're going to have to shoot me" or, "Shoot me." According to Officer Seto, Woods did not appear "angry," but seemed as though he was either going to fight or flee.

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<sup>8</sup> Officer Seto explained that, according to their training, if one officer has an ERIW, another officer should have his gun drawn so that if the situation evolves and lethal force becomes necessary, the lethal-cover officer can protect the ERIW-officer, who may not have time to transition from the ERIW to his firearm.

The multiple ERIW rounds did not appear to affect Woods, except for one round which hit him in the groin area. Woods “became an imminent threat” when he closed the distance between him and Officer August. Officer Seto moved to his left to follow Woods, and for about a second, he lost sight of Woods as Officer Seto walked around a tree. Once he cleared the tree, he saw Officer August back-pedaling as Woods advanced towards him. Officer Seto heard a “pop” and he thought Woods was lunging towards Officer August. He pulled his trigger, he estimated two to three times. (An examination of his gun revealed he fired five times.) At the time he fired, Woods was still holding the knife and appeared to be within 10 feet of Officer August. Officer Seto feared Woods was going to assault Officer August. Officer Seto believed Woods was either going to fight them or flee because Woods was still holding the knife, had possibly stabbed someone else, and was not complying with commands. Officer Seto was trained to draw his gun when a knife-wielding suspect is, at a minimum, 21 feet away because a suspect can quickly close that distance and slash an officer.

## 2. Civilian Statement

Reuben R., a civilian who watched the incident unfold, told investigators Woods began walking towards Officer August and, when “[Woods] was a few steps away from” him, officers fired. In Reuben R.’s opinion, Woods was given “plenty of time to do as instructed.”

## 3. Expert Analysis of Videos

IIB sent videos capturing the incident from multiple angles to Jason Fries, Chief Executive Officer of 3D-Forensics, Inc. We asked him to determine whether Woods held a knife at the time shots were fired. After synchronizing the videos and conducting an intensive frame-by-frame analysis, he concluded that Woods was still holding the knife when officers fired. *See* Attachment 1.

We also asked Fries to determine the distance between Woods and Officer August. To determine this, Fries conducted a laser scan of the scene with a Leica C-10 scanner, which creates a three-dimensional image for each object and feature based on ten million data points. Fries placed a scanner in six separate locations at the scene to generate a three-dimensional map. With still frames from videos of the shooting and the scanner’s map of the scene, Fries was able to determine where each person was located when that person filmed the incident. Fries then matched the video footage to the three-dimensional map to determine the distance between Woods and the officers. Lastly, Fries cross-checked his results by measuring distances based on the sidewalk grid. Using this methodology, Fries calculated that Woods was less than eight feet away from Officer August before Officer August fired. *See* Exh. 8.





**Exh. 8:** A birds-eye view of the shooting with distances between Woods (yellow) and Officer August (green).  
(Source: 3D-Forensic)

#### 4. Muni Bus Footage

As mentioned above, Officer August believed that if Woods was permitted to leave the perimeter, he would be able to gain access to civilians. Footage from the bus shows that at the time Officer August began moving to block Woods, he was the only officer shielding the civilians from Woods. Although three officers were quickly approaching from Fitzgerald Ave., they arrived as the shots were being fired.



**Exh. 9:** Screenshot taken just after Officer August took the first lateral and backwards step to block Woods' potential escape. (Source: Muni bus #8614)

#### **D. Use-of-Force Trainers**

##### **1. SFPD Trainer Sgt. Pomatto**

Since June 2016, Sgt. Steve Pomatto has served as the supervisor of the San Francisco Police Department's Training Academy's Physical Training/Defensive Tactics Unit. He graduated from SFPD's Training Academy in 2001 and has held various roles at SFPD, including as a specialist in the tactical company and as an investigator in internal affairs. Sgt. Pomatto instructs on the classroom portion of the use-of-force curriculum mandated by a state regulatory body.

According to Sgt. Pomatto, officers are trained that individuals armed with knives pose a deadly threat, and officers are trained to keep or create a safe distance between the armed individual and the officers and the public. SFPD trains officers on the "reactionary gap," namely that knife-wielding suspects can quickly cover a distance and harm an officer before the officer has a chance to recognize the threat, unholster his gun, and shoot. Officers are trained that the closer they are to a suspect, the less time they will have to react. Officers are therefore trained to contain the suspect and to create "time and distance" -- i.e., to stay at a distance from the suspect (and if possible, to place obstacles such as cars or trees between them) and to slow down the interaction to allow time to gain compliance. According to Sgt. Pomatto, SFPD does not train officers to go "hands-on" -- e.g., tackling a knife-wielding individual -- because it poses too much

risk to the officer. Similarly, SFPD does not train officers to use a baton to gain control over a knife-wielding suspect because that poses too much danger to the officer. If less-than-lethal options such as the ERIW are used, officers are trained to have a lethal cover officer whose job is to ensure the safety of the officer using the less-than-lethal weapon.

After reviewing the videos of the incident, Sgt. Pomatto explained the officers acted in accordance with SFPD training. He said the officers were trained to contain Woods, who posed a threat to the public since they had probable cause to believe he had committed a violent felony and because he still was equipped with a knife. When Woods moved to break away from the group after multiple less-than-lethal rounds had failed, Officer August acted consistently with his training and with SFPD's "core value" of protecting the public, by blocking Woods. According to Sgt. Pomatto, when Officer August and the others fired at Woods, Woods posed a potential threat to Officer August because of his close proximity. Although Woods was not pointing his knife at Officer August or lunging towards him, SFPD officers are trained that such individuals – i.e., a knife-wielding suspect who just committed a violent felony, who resists arrest, and against whom less than lethal force has failed – pose a lethal threat and they do not have to wait for an individual to "attack" them in order to use lethal force. Sgt. Pomatto further explained that officers are trained to shoot for the center mass of the body – i.e., the upper torso – and they are not trained to shoot for a limb such as the leg, because the center mass is the largest target and the area likely to result in the greatest accuracy for the officers who are shooting in a high-pressure situation.

Though he believed that the officers acted in accordance with their training, Sgt. Pomatto would have preferred if the officers had been able to take cover, but explained that the presence of bystanders may have caused the officers to create a tight perimeter around Woods. Sgt. Pomatto also said the officers' tight semi-circle increased the risk of cross-fire – i.e., officers hitting each other when they fired. The current training curriculum emphasizes more supervisory scene control with sergeants directing officers into position and handling crowd control.

## 2. Independent Use of Force Expert

Charles J. Key is a nationally recognized, court-qualified use-of-force expert who has testified on behalf of the United States in federal prosecutions against officers for civil rights violations. Key's prior history includes over 25 years with the Baltimore Police Department as a commanding officer, firearms training instructor, and other supervisory and critical incident positions. IIB asked Key to review the videos of the incident, the officers' statements, and police reports, and provide an independent expert evaluation of the officers' actions. After reviewing the materials, Key opined that the officers' actions were legally justified and in accordance with nationally recognized training standards. According to Key, the officers appropriately contained Woods, who they had probable cause to believe had committed a violent felony. Key explained that a five-inch knife could easily cause lethal injury to a person. It was therefore appropriate for officers to have their guns pointed and trained on Woods. Officers are not trained to gain control over a knife-wielding subject with a baton, for example, because it poses too much risk to the officer.<sup>9</sup>

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<sup>9</sup> Key provided a link to a video in which an officer in Argentina attempted to use a baton to disarm a knife-wielder. <http://ferfal.blogspot.com/2011/12/knife-attack-video-and-tueller-drill.html>. According to the website, the knife-wielder stabbed the officer once in the lung, killing him.

Key noted the officers used less than lethal force – verbal commands, the semi-circle containment formation, the foam baton rounds, bean-bag shots, and pepper spray – to attempt to gain Woods’ compliance, all of which failed. When Woods began walking away, it was appropriate for Officer August to block his path because Woods posed a potential danger to the public. According to Key, it was reasonable for Officer August to shoot Woods because Woods was in very close proximity to him and he still had a knife. Although Woods was not pointing the knife at Officer August or lunging at him and Woods appeared to be holding the knife at his side when Officer August fired, Woods still posed an imminent threat of serious bodily injury to Officer August. Officers are trained that knives can quickly be turned and used against them in a fraction of a second, faster than the time in which Officer August might be able to react. As Key explained, officers are trained in action versus reaction time, namely, that “if an adversary who has a weapon or is in close proximity to an officer makes a decision to attack and implements that decision, the officer’s recognition and reaction to the attack might be too late to protect himself or others from a lethal threat.” For this reason, officers are trained that they do not have to wait until a weapon is pointed at them or used against them before they may use lethal force to protect themselves or others.

#### **E. Stabbing of Marcel S.**

Marcel S. provided a statement to law enforcement investigators on the day of the incident, and identified Woods from a photograph line-up the day following.

According to Marcel S., during the afternoon of December 2, 2015, he was sitting in the back seat of a car parked in front of his apartment building when he saw Woods walking back and forth to the car. Woods appeared to be fixated on Marcel S., whom Marcel S. recognized in passing but did not know. Woods made eye contact with Marcel S., who laughed and then looked back down on his phone. Woods thought Marcel S. was calling someone, and asked, “Who you calling?” and attempted to open Marcel S.’s door. Marcel S. tried to push him back with the car door to defend himself. Marcel S. got out of the car. Woods pulled a knife out of his right pocket and attempted to stab Marcel S. Marcel S. tried to keep Woods at a distance, kicking Woods in the chest to push him away. According to Marcel S., Woods was trying “to take [him] out” by twice aiming for Marcel S. in the neck. Woods swung again, and Marcel S. attempted to push Woods’ arm up, but Woods still managed to cut Marcel S. in the arm. Marcel S. believed Woods was trying to kill him. Woods said something like, “I’m going to stick your bitch ass.” Marcel S. ran away and found women he was talking to earlier in the afternoon. They took him to the hospital.

Shakia V. was the witness who provided SFPD officers the detailed description of Woods that was broadcast over the radio. She stated she was standing outside of her apartment and witnessed the stabbing. Her report overlaps on the broad key details with Marcel S. – i.e., Marcel S. was in his car when Woods went up to it and provoked a confrontation; Marcel S. got out, and Woods stabbed him with the knife -- but her recollection differs from Marcel S.’s in some details.<sup>10</sup> She said Woods walked up to the car and demanded, “You know who the fuck I’m talking to. Get out the car.” She also heard Woods say, “I am going to stab you in your motherfucking ass.” Because the window was up, Shakia V. did not think Marcel S. could hear Woods. When Marcel S. got out, Woods reached into his pocket and pulled out a knife to stab

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<sup>10</sup> For example, Marcel S. said he was sitting in the car with Shakia V. and another woman, but Shakia V. said she was outside smoking and witnessed the incident.

Marcel S. Shakia did not see Marcel S. kick Woods. After being stabbed, Marcel S. ran off, and Woods said, "If this motherfucker come back, I'm stabbing him in his neck." Shakia V. reported being frightened.

#### **F. Autopsy and Toxicology Report**

Dr. Michael D. Hunter, Chief Medical Examiner, examined Woods' body and determined the cause of death was multiple gunshot wounds. Dr. Hunter found 20 gunshot wounds to various parts of the body -- including the abdomen, back, thighs, arms, right index finger, head, left thumb, and left calf and buttock -- and a "probable" gunshot graze wound to the right cheek. Dr. Hunter also found five impact injuries consistent with the less than lethal rounds -- "targetoid contusions" to the left chest, left forearm, left hip, and left thigh, and an abrasion on the right calf that may be a "tangential injury" from a less than lethal round.

Toxicology tests of blood samples taken post-mortem indicate, among other things, the presence of methamphetamine (.37 mg/L left chest, .61 mg/L right chest), and amphetamine (.02 mg/L left chest and .03 mg/L right chest). Dr. Luke Rodda, Director and Chief Forensic Toxicologist for the City and County of San Francisco, explained these tests indicate Woods was under the influence of methamphetamine just before his death and the drug would have affected his mental and psychomotor abilities. Dr. Rodda was not, however, able to confirm the precise drug levels in Woods' circulatory system just before his death. This is because trauma, such as multiple gunshot wounds, can cause a body to either release or absorb drugs into or out of the blood into fat or other tissue, causing the post-mortem blood samples to have a different level of drugs than were in his circulatory system just before death.

Dr. Rodda explained that methamphetamine affects an individual's mental state and psychomotor abilities, and typical "meth" behavior includes erratic decisions, thoughts and actions, paranoia, delusions, aggressiveness, and violence. Importantly, he noted methamphetamine impairs judgment and perceptions because the stimulant overloads neurotransmitters and receptors, rendering the brain and nervous system unable to process or react to sensory inputs as well as they do when not under the influence. Someone under the influence may be so stimulated that he is unable to accurately process the things he sees, hears, or feels. According to Dr. Rodda, this may explain why Woods did not react strongly to the less-than-lethal rounds or obey commands to drop the knife.

#### **G. Knife**

A knife was recovered on scene in close proximity to Woods' body. *See* Exhs. 10A and 10B. The blade is approximately four-and-a-half inches long.





**Exh. 10A:** Knife found on scene near Woods' body. (Source: SFPD CSI)



**Exh. 10B:** Knife recovered on scene. (Source: SFPD CSI)

This knife, which appears to have blood on it, was submitted for DNA testing. Laboratory test results show the knife blade tested positive for the presence of Marcel S.'s DNA, and the knife handle tested positive for Woods' DNA.

#### **H. Woods' Background**

We investigated whether the involved SFPD officers had a documented history with Woods. (During the investigation, only Officer Ortiz—who did not use lethal force—reported knowing Woods.) IIB examined SFPD records to establish whether there was any previously undisclosed history between Woods and any of the officers who used lethal force. We did not find any contacts between any of those officers and Woods.

### **III. LEGAL STANDARD**

The question presented is whether the officers committed a crime by shooting and killing Woods. Possible criminal charges against an officer involved in a fatal shooting include murder and voluntary manslaughter. To charge an officer, or any person, a prosecutor must be satisfied the evidence shows beyond a reasonable doubt the officer had no legal justification for the act. When an act is legally justified, a person is not criminally liable even though the act would otherwise constitute a crime. Here, the officers said they used lethal force because they believed they were acting in self-defense and/or in defense of others.

California law permits any individual – officer or civilian – 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. Self-defense or defense of others serves as a complete defense to murder and voluntary manslaughter so long as the officer (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 the officer's position. 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. Humphrey* (1996) 13 Cal.4th at 1083. 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.” *Id.* This includes any prior assaults or known threats. *People v. Aris* (1989) 215 Cal.App.3d 1178, 1188-89. 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. In other words, a prosecutor carries the

burden of proving beyond a reasonable doubt that an officer's claim that he perceived the need to use deadly force was objectively unreasonable.

#### IV. LEGAL ANALYSIS

Here, the subjective prong is met for all officers. Each officer articulated his belief that Officer August and/or the civilians were in imminent danger of great bodily harm. The question turns on whether this belief was objectively reasonable. For the reasons explained below, we cannot prove beyond a reasonable doubt that it was not.

That we cannot prove beyond a reasonable doubt that the officers acted objectively unreasonably is perhaps best demonstrated by the fact that the officers acted in accordance with their SFPD training and within nationally recognized norms. Both SFPD trainer Sgt. Pomatto and Key reviewed all the videos and, step-by-step, explained that the officers' actions were consistent with their SFPD training (Sgt. Pomatto) and with nationally recognized standards for police training at that time (Key).

Specifically, the officers had probable cause to believe that Woods had committed a violent felony. They had heard radio reports from two different sources that a man matching Woods' description had stabbed someone. One source reported the victim had sought emergency medical services at the hospital; the other indicated the suspect may still be in the area of the stabbing. When Officers August and Thompson found Woods, approximately half a mile from the stabbing location, Woods pulled out a knife and walked away from them. Given the serious nature of the crime the officers believed Woods had committed, the officers would have been derelict in their duty to protect the public had they let Woods escape. They appropriately called for back-up and, with the assistance of other officers, attempted to contain and disarm him. In accordance with their training, the officers attempted to use less-than-lethal force to gain control of Woods. They issued multiple verbal commands for him to drop his knife and then physically surrounded him. They fired four rounds of foam baton munitions, two rounds of bean bag shots, and a burst of pepper spray to his face. Despite all these attempts, Woods did not comply with their commands for him to drop his knife. Rather, Woods walked away from the officers and headed in the direction of civilians.

When Woods began to flee from the officers, it was not unreasonable for Officer August, who was closest to Woods, to prevent him from leaving. Woods posed a credible threat to the public, and the officers had a duty to protect the public from Woods, who had been given multiple chances to comply and who was resisting arrest. As Sgt. Pomatto explained, officers are trained to contain a suspect with an edged weapon and keep him separated from the public. Key, a use of force expert, agreed, explaining that Officer August had to block Woods' exit and keep him contained.

Officer August took three steps in a lateral and backwards direction to prevent Woods from leaving. Woods, however, did not stop once he saw Officer August moving to block his path. Woods also did not attempt to veer around Officer August or otherwise create distance from him. Rather, he continued forward, closing the distance. At the point at which the officers fired, Woods was less than eight feet away from Officer August. At this distance, it was not unreasonable to believe that Woods posed an imminent threat of serious bodily injury to Officer August, even though Woods was not lunging towards or attempting to stab Officer August. As



Sgt. Pomatto and Key explained, officers are trained that they do not have to wait for someone to point a gun at them or attempt to slash at them with a knife before they may use lethal force because if officers do, the officer will likely not have sufficient time to react to protect himself or others.

The five officers who used lethal force were not alone in believing Woods posed a danger to Officer August and the bystanders. Other officers who were present shared that belief. Officer Ortiz said he feared that Woods was going to stab Officer August. Similarly, when Officer Navarro saw Woods walk toward Officer August, he was worried about Officer August's safety because of his close proximity to Woods. Officer Traw believed that once Woods began walking away, he posed an imminent threat to the public and to Officer August. Similarly, Officer Thompson reported fearing that Woods was going to stab Officer August, and that if Woods walked past Officer August, he would stab a bystander.

Because the officers acted in accordance with their training, we cannot prove beyond a reasonable doubt that it was unreasonable for the officers to use lethal force rather than, for example, tackling Woods or using some other non-lethal method. Officers are not trained to go "hands on" with a suspect who has a knife or to use a baton to disarm such an individual. Officers are specifically trained not to go "hands on" with knife-wielding suspects, but rather, to maintain a safe distance because knife-wielding suspects pose a deadly threat, and that risk magnifies the closer the suspect is to the officer.

Consistent with how officers are trained, courts have also found as a matter of law that it was reasonable for officers to shoot in similar situations involving individuals brandishing knives. In *Martinez v. County of L.A.*, 47 Cal. App. 4th 334 (1996), for example, the court found it was reasonable for officers to shoot a knife-wielding individual when he was approximately 10 to 15 feet away because, in part, he refused multiple commands to drop the knife and he challenged the officers to shoot him. In that case—unlike here—there was no evidence the knife-wielder had stabbed or injured anyone. *See also Rhodes v. McDannel*, 945 F.2d 117 (6th Cir. 1991) (affirming it was reasonable for officers to shoot an individual who was wielding a machete when he was four to six feet away from the officers and his original-intended victim)(*cited by Martinez v. County of L.A.*, 47 Cal. App. at 344-45); and *Roy v. Inhabitants of City of Lewiston* 42 F.3d 691, 695 (1st Cir. 1994) (holding it was reasonable for officer to shoot a suspect when he was four to six feet from the officers because he was armed with a knife; made a kicking or lunging motion towards the officers; and refused multiple verbal warnings) (*cited by Martinez v. County of L.A.*, 47 Cal. App. at 344-45).

## **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 criminal charges in this matter.