



Sacramento County District Attorney's Office

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DATE: June 27, 2022

TO: Chief Kathy Lester
Sacramento Police Department
5700 Freeport Boulevard
Sacramento, CA 95822

FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case No. SPD 2020-261223
Shooting Officer: SPD Officer Vincent Catricala #379 SPD
Person Shot: Albert Wheeler (DOB 03/28/1970)

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above-referenced officer-involved shooting. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Albert Wheeler. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other documentary items. These items include Sacramento Police Department report 2020-261223, body-worn camera footage, in-car camera recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, medical records, Sacramento County District Attorney Laboratory of Forensic Services reports, transcripts of phone calls, and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On August 4, 2020, a woman called 9-1-1 and indicated that her husband, Albert Wheeler, was sitting in his truck in her driveway on Rivera Drive in Sacramento. She stated that Wheeler brandished a firearm and wanted to kill himself. She gave the 9-1-1 dispatcher a description of Wheeler and the truck.

Multiple officers from the Sacramento Police Department were immediately dispatched to the scene. Sergeant Andy Hall arrived at the Rivera home and saw Wheeler driving in his truck. Sergeant Hall noted that Wheeler and the truck matched the description given by Wheeler's wife.

Sergeant Hall turned on his overhead emergency lights to stop Wheeler, who sped away and ran multiple stop signs. Having lost sight of Wheeler, Sergeant Hall drove back to the house.

Sergeant Hall contacted Wheeler's wife and confirmed that she was the person who called 9-1-1. As he spoke with her, he heard another officer broadcast over the radio that Albert Wheeler was driving back towards the house.

Sergeant Hall crouched behind his patrol car and saw Wheeler's truck speeding towards the house. As Wheeler passed, he fired two shots at Sergeant Hall from inside his truck. Both bullets hit Sergeant Hall's patrol vehicle.

Wheeler sped away after firing at Sergeant Hall. Multiple SPD officers arrived to investigate the shooting. Officer David Lee interviewed Wheeler's son, who said that his father started an argument with his mother. He said that during the argument, Wheeler stated, "I'm gonna end it all. I'm gonna do suicide by cop."

Officer Morgan Becker interviewed Wheeler's daughter, who said that her mother and father were in the process of splitting up. Her father came over for her birthday and started arguing with her mother. Her father went to his truck and brandished a gun. She stated that her father had previously told her that he would die of "suicide by cop."

A warrant for Wheeler's arrest was issued for the attempted murder of Sergeant Hall.

On September 1, 2020, the Sacramento Police Department's Career Criminal Apprehension Team conducted surveillance at three different locations to locate and arrest Wheeler. At approximately 2:45 p.m., Detective Michael Loscher saw Wheeler at a home on Wisconsin Avenue in Sacramento. The Wisconsin Avenue residence is a single-story home adjacent to a gas station and liquor store at the corner of Northgate Boulevard and Wisconsin Avenue. The two properties are separated by a chain link fence which borders the backyard of the home. A hole in the chain link fence leads to an alleyway between the liquor store and a strip mall.

Shortly thereafter, Detectives observed a female leaving the home and driving off. Officers contacted her and she stated that Wheeler was inside the Wisconsin Avenue residence.

SPD SWAT officers and a Crisis Negotiation Team (CNT) were dispatched to the location.

At approximately 5:45 p.m., a woman and two small children were contacted in the front yard of the Wisconsin Avenue home. Detectives removed all three from the scene. The woman told detectives that Wheeler was inside with a female.

At approximately 5:52 p.m., the CNT contacted the woman by phone to persuade her to safely exit the house. A few minutes later, she exited the house and was taken away from the scene by police. She told the CNT that Wheeler was now alone inside the house.

At approximately 6:25 p.m., Officer Travis Boyer of the CNT contacted Wheeler by phone. Officer Boyer asked Wheeler if he was okay. Wheeler began to cry and replied, "Fuck you,

man.” Wheeler further stated that the police had come to his house too many times and that he did not care anymore. Wheeler stated, “You ain’t going to get me alive, motherfuckers.” Wheeler then ended the call.

At approximately 6:28 p.m., Wheeler called Officer Boyer back. Wheeler said he “is not playing.” He asked if Officer Boyer would help him get away with the “stupid shit” he did. Wheeler told Officer Boyer that his life was in danger because he was not going back to prison.

Wheeler then said, “I am going to spend the rest of my life in prison, and I am not going back to prison, dude. I did fucking excellent and then I came home, and I fucked up and right now I am going to pay the price. I am not going back to prison and you need to understand that. Okay? Right now, you need to understand that. Don’t fucking lie to me, dude.”

Wheeler then asked to speak to his wife and said that no one was going to get hurt. He told Officer Boyer not to hurt his dog and not to shoot up his house. He then said that he wanted the officers to let him go to the back of the house so they could deal with him there.

Wheeler asked Officer Boyer to talk to his boss and see if he could guarantee that Wheeler would not receive prison time. Wheeler suddenly stated, “I see them coming man, you better come correct.” The phone line disconnected. Officer Boyer called Wheeler back, but there was no answer.

At approximately 6:41 p.m., Wheeler answered Officer Boyer’s call. Wheeler asked to speak with one of the two women the police had removed from the scene before he exited the house. However, the call abruptly dropped.

At approximately 6:49 p.m., Officer Boyer spoke with Wheeler again and told Wheeler he was with the woman that had exited the residence. Officer Boyer also told Wheeler that the woman had a message and that it would be delivered soon. Wheeler responded in a muffled voice. Officer Boyer believed he heard Wheeler’s last words to be, “Time’s up.” That was the last conversation Officer Boyer had with Wheeler.

The Career Criminal Apprehension Team and other law enforcement partners had established a perimeter around the Wisconsin Avenue residence while Officer Boyer was speaking with Wheeler. Officer Vincent Catricala was positioned on the west side of the perimeter, at the end of the alleyway that connected the backyard of the residence to the liquor store and strip mall. Officer Catricala was dressed in full police uniform and armed with a department issued Colt AR-15 rifle. Officer Catricala knew from a previous briefing that Wheeler was potentially armed and had shot twice at Sergeant Hall. Officer Catricala also heard over the radio that Wheeler told the CNT that he “was not going back.” Officer Catricala believed that to mean that Wheeler did not intend to allow himself to go back to prison.

At approximately 6:53 p.m., an observer in a police helicopter directly overhead saw Wheeler exit the house into the backyard. Helicopter personnel stated over the radio that Wheeler was heading westbound. The personnel saw Wheeler toss a duffel bag and flee the backyard.

Officer Catricala heard over the radio that Wheeler was running westbound and saw Wheeler sprinting towards his position. Officer Catricala saw a handgun in Wheeler's right hand.

Officer Catricala yelled to Wheeler, "Let me see your hands!" Wheeler did not respond and continued to run towards Officer Catricala with the gun. Officer Michael Pinola's K-9 was chasing after Wheeler as Wheeler ran towards Officer Catricala.

As Wheeler got closer, Officer Catricala saw Wheeler raising the gun up and bringing his hands together, as if positioning himself to shoot. Officer Catricala then saw Wheeler point the gun at him. He believed that Wheeler intended to shoot him and feared for his life.

In response, Officer Catricala fired multiple rounds at Wheeler. He fired as he was backpedaling to create space between himself and Wheeler. As he backpedaled, Officer Catricala tripped over the curb behind him and fell.

Officer Catricala immediately stood up and visually reacquired Wheeler's position. He saw Wheeler in a seated position with both legs straight out, still holding the gun in his right hand.

Officer Catricala saw Wheeler again bring the gun up to a shooting position and saw Wheeler turn towards him with the gun. Officer Catricala then immediately fired one additional shot at Wheeler.

Wheeler fell to the ground and dropped the gun approximately two feet away. Within approximately two minutes, officers equipped with shields approached Wheeler. They secured the firearm, took custody of Wheeler, and provided medical assistance to Wheeler until they were relieved by members of the Sacramento Fire Department at approximately 7:01 p.m.

Fire Department medical personnel attempted to administer life-saving treatment to Wheeler until approximately 7:50 p.m., when he was pronounced deceased at the scene by Fire Department personnel.

Officer Catricala's body-worn camera video was reviewed. It depicts Officer Catricala in the alleyway that connects the backyard of the Wisconsin Avenue home to the adjacent strip mall.

At approximately 6:52 p.m., the video shows Officer Catricala in a seated position, armed with his rifle.

At approximately 6:53 pm, the video shows Officer Catricala stand up and point his weapon. Officer Catricala is heard yelling, "Let me see your hands!"

Wheeler is not captured on the body-worn camera video at this point due to Officer Catricala's crouched stance and the angle of the camera.

The video shows Officer Catricala backing up as he fires multiple rounds. Officer Catricala then falls to the ground.

The video then shows Officer Catricala immediately getting up and advancing forward. Wheeler is now captured on the video. Wheeler is in a seated position with both legs straight out on the ground.

Wheeler is seated with his torso partially bent over and an object can be seen in his right hand, which is raised. Wheeler then tries to straighten up into a fully upright seated position, and Officer Catricala then fires one final shot. After this shot, Wheeler is seen laying on his back on the ground.

In-car camera video of Officer Michael Pinola's patrol car was reviewed. The patrol car was parked at the end of the alleyway on the strip mall side. The camera directly faced the fencing of the Wisconsin Avenue residence and captured the entire incident.

In the video, Officer Catricala is seen positioned at the end of the alleyway near the patrol car.

In the audio portion, officers are heard stating over the radio that Wheeler was on the run and running towards the west side of the fence line. Further, officers relayed over the radio to "Get ready."

A few seconds later, Wheeler appears in the video running towards Officer Catricala. The video further shows Wheeler running directly at Officer Catricala, raising his gun up, and pointing it in Officer Catricala's direction.

Suddenly, yelling and multiple gunshots are heard. The video shows Wheeler pointing his gun directly towards Officer Catricala's position before and during the time Officer Catricala fires his weapon.

The video then shows Officer Catricala fall backwards and Wheeler being chased by Officer Pinola's K-9. Wheeler then falls to the ground and Officer Pinola's K-9 is seen biting Wheeler by the leg.

The video then shows Officer Catricala stand up and point his rifle at Wheeler. A clear view of Wheeler at this point is obscured by the dark metal fence. One last gunshot is heard and Wheeler's body goes limp to the ground.

Police helicopter video was reviewed. Wheeler can be seen running from the backyard of the residence towards the alleyway between the liquor store and strip mall. The area is blocked from view by the strip mall building until after the shooting when Wheeler can be observed laying on the ground. It otherwise depicts the events as described above.

A round count and examination of casings recovered at the scene determined that Officer Catricala fired a total of 10 rounds from his Colt AR-15 .223 caliber semiautomatic rifle.

A Beretta Model 92 FS Centurion 9mm semi-automatic handgun was recovered two feet away from Wheeler's body. The gun was loaded with 15 rounds. Two additional magazines loaded with 9mm rounds were found in Wheeler's right pants pocket.

There is no evidence to suggest any bullets were discharged from Wheeler's gun during this incident.

An autopsy was conducted by Dr. James P. Tovar of the Sacramento County Coroner's Office. Dr. Tovar's findings indicate Wheeler suffered 3 gunshot wounds, one to his neck, one to his arm, and one to his left buttock. Dr. Tovar determined the cause of Wheeler's death to be the gunshot wound to his neck. The direction of that gunshot was front to back, left to right and downward.

A sample of Wheeler's femoral blood was obtained and sent to the Sacramento County District Attorney Office's Laboratory of Forensic Services for testing. The sample was found to contain a blood-alcohol content of .062%. The sample was further found to contain methamphetamine and amphetamine.

LEGAL ANALYSIS

An officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11; *Graham v. Connor* (1989) 490 U.S. 386, 396; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; California Penal Code section 835a(b); CALCRIM 2670.) The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; CALCRIM 2670, 2671, 2672.) Officers do not need to retreat or desist their efforts if the person they are arresting or detaining resists or threatens resistance; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (California Penal Code section 835a(d).)

Here, Sergeant Hall responded on August 4, 2020, to a complaint that Wheeler had brandished a firearm in front of his wife. Sergeant Hall located Wheeler driving in his truck and attempted to detain Wheeler. He activated his overhead emergency lights to instruct Wheeler to yield. Wheeler had an obligation to permit himself to be detained. Wheeler chose not to do so. Instead, Wheeler chose to accelerate away and run multiple stop signs.

Sergeant Hall lost sight of Wheeler. He returned to the scene of the original complaint to investigate further. When Sergeant Hall did so, Wheeler drove back to the area and fired two gunshots at Sergeant Hall from inside his truck. Both gunshots struck Sergeant Hall's patrol vehicle.

An arrest warrant was issued for Wheeler for the attempted murder of Sergeant Hall.

On September 1, 2020, it was determined that Wheeler was inside a home on Wisconsin Avenue. That home was eventually surrounded by police and a standoff ensued.

Wheeler had a duty to allow himself to be detained for shooting at Sergeant Hall. However,

Wheeler conveyed to the police negotiator that he was not surrendering and that he would not go back to prison. He also stated that the police would not capture him alive. This was a threat to resist apprehension violently.

Officer Catricala was part of the apprehension team and had been informed of Wheeler's prior conduct and his conversations with the negotiator. After extended negotiations, Wheeler fled the home with a loaded firearm and ran towards Officer Catricala's position.

Officer Catricala commanded Wheeler to let him see his hands, but Wheeler continued running at Officer Catricala. Officer Catricala clearly saw a firearm in Wheeler's right hand. He also saw Wheeler raise the gun up and point it at him.

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 505, 507, 3470; California Penal Code section 835a(c)(1)(A).) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the officer may employ all force reasonably believed necessary. (CALCRIM 3470.) The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. (California Penal Code section 835a(a)(4); *Graham v. Connor* (1989) 490 U.S. 386.)

Officer Catricala was faced with a suspect who had shot at another officer, who was sprinting towards him, who ignored a command to show his hands, and who was pointing a gun directly at him. Officer Catricala was justified in believing he needed to take immediate action to defend his life.

After the first volley of shots by Officer Catricala, Wheeler was on the ground and in a seated position, yet still had the gun in his right hand. Wheeler looked towards Officer Catricala and again raised the gun. In doing so, Wheeler clearly presented an immediate threat of death or serious bodily injury to Officer Catricala. Officer Catricala acted reasonably when he fired the final shot at Wheeler.

CONCLUSION

Given the circumstances of this situation, we conclude that Officer Catricala was justified in using deadly force. Wheeler had previously brandished a gun at his wife and was threatening suicide by cop. He fired two gunshots at Sergeant Hall before he evaded police custody. Police officers later located Wheeler and surrounded the home in which he was staying. After extensive efforts at negotiation, Wheeler fled the house on foot with a loaded firearm. He sprinted towards Officer Catricala and raised his gun upwards in his right hand. This created an immediate danger

of death or serious bodily harm to Officer Catricala. Even after being shot and falling to the ground, Wheeler sat up and again raised his gun, continuing the immediate danger of death and serious bodily injury to Officer Catricala. It was reasonable for Officer Catricala to believe Wheeler would shoot him if he did not immediately respond with deadly force. As such, his actions were lawful. Accordingly, we will take no further action in this matter.

Cc: Officer Vincent Catricala, Sacramento Police Department
Detective Scot Krutz, Sacramento Police Department
Sergeant Joseph Ellis, Sacramento Police Department
Kimberly Gin, Sacramento County Coroner's Office
Office of Public Safety Accountability