



Sacramento County District Attorney's Office

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MEMORANDUM

DATE: February 4, 2020

TO: Police Chief Daniel Hahn
Sacramento Police Department
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

FROM: Sacramento County District Attorney's Office

RE: Officer-Involved Shooting Case No. 2018-284104
Shooting Officers: Todd Edgerton #3131
Patrick Cox #419
Person Shot: Darell Richards (DOB 12/21/98)

The District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Darell Richards. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento Police Department report number 2018-284104 and its related dispatch logs and audio recordings, 9-1-1 audio recordings, witness interview recordings, scene photographs, scene videos, scene diagrams, in-car camera videos, body-worn camera videos, cellular phone records and videos, and surveillance videos; Sacramento County District Attorney's Office Laboratory of Forensic Services Firearm Examination, Blood Alcohol, and Toxicology reports; and Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On September 5, 2018, at approximately 11:30 p.m., two Tower Café employees who had just completed their work shifts exited the restaurant. As they walked westbound on Broadway, they observed Richards walking towards them. Richards was wearing a hooded sweatshirt with a white design, a mask covering the lower portion of his face, sunglasses, and a backpack. As Richards approached the two men, he extended both arms and pointed a black gun at them. Richards walked past the employees and kept looking back at them. Another Tower Café

employee was nearby and observed this incident. Richards also pointed the gun at this employee, who then called 9-1-1. Richards walked eastbound on Broadway towards the Regional Transit light rail station near 21st Street.

Sacramento Police Officer Joseph Tippetts responded to the scene in a marked patrol vehicle. At approximately 11:38 p.m., Officer Tippetts was driving westbound on Broadway near the light rail station. He observed Richards walking along the street. Officer Tippetts turned on his patrol spot lights and drove towards Richards. Richards dropped his backpack, turned around, and fled westbound on Broadway and then southbound on 20th Street. Officer Tippetts activated his patrol vehicle's overhead red and blue lights and pursued Richards on 20th Street. Officer Tippetts observed Richards run east through a front yard at 2567 20th Street and climb over the fence.

During this time, Officer Stephen Sanguinetti drove east on Broadway towards the light rail station. He followed Officer Tippetts into the area and parked his marked patrol vehicle in the alley east of 20th Street. Officer Sanguinetti observed Richards climb over the back fence between 2571 20th Street and 2567 20th Street into the alley. Richards then walked to a nearby fence. He attempted to climb it, but the fence board broke. Officer Sanguinetti yelled, "Let me see your hands!" and "Get on the ground!" He repeated these commands. Richards turned towards Officer Sanguinetti and paused. Officer Sanguinetti observed Richards with a gun in his hand. Richards returned towards the back fence and fled. Officer Sanguinetti communicated Richards' location and direction of travel to dispatchers. He also stated Richards was still armed with a gun.

One of the homeowners at 2017 1st Avenue was returning from work. She heard a man yell "shit" and then she heard a loud crash from the back of her house. She called 9-1-1 and reported this incident at approximately 11:43 p.m.

Sergeant Todd Edgerton and Officer Patrick Cox were members of the Special Weapons and Tactics (SWAT) team. At approximately 12:13 a.m., they responded to the scene to search for Richards. They attended a briefing and were informed that Richards was hiding in the area armed with a gun. They were shown a Regional Transit surveillance photo of Richards walking on the street in possession of a gun. They also learned Officer Sanguinetti observed Richards climbing a fence and holding a gun earlier. After obtaining this information, the SWAT team conducted a neighborhood search and eventually arrived at 2017 1st Avenue at approximately 3:00 a.m.

Sergeant Edgerton, Officer Cox, and other SWAT team members contacted the other homeowner at 2017 1st Avenue. He indicated the side gate was locked, there was a downstairs apartment unit, the unit's entry door was locked, and the resident was not home. The homeowner provided officers with a key to unlock the side gate. After opening the gate, the officers directed a K-9 dog into the side yard. The K-9 searched and cleared the side yard. Officers determined the apartment unit door was unlocked and proceeded to check the interior with negative results. The officers continued to clear the backyard and approached a set of stairs from the apartment unit leading to an elevated porch.

At approximately 3:12 a.m., Officer Cox was clearing the area under the stairs with a light attached to his duty rifle. Sergeant Edgerton approached on his right side. Officer Cox then observed Richards' left profile in a seated position under the stairs. Cox and Officer Barry Tiner ordered Richards to show his hands and drop the gun. Sergeant Edgerton looked over at the area and observed Richards turning and wearing a surgical mask on his face. Sergeant Edgerton was approximately 10-15 feet away. Sergeant Edgerton and Officer Cox observed Richards raise his hand holding a handgun towards Officer Tiner, who was positioned to the left of Officer Cox. Sergeant Edgerton and Officer Cox believed Richards was going to shoot his gun at them or Officer Tiner, so both fired their .223 caliber rifles at Richards. Richards fell down on his right side.

The officers could not determine if Richards was still armed. Sergeant Edgerton ordered all the officers to go back behind the corner of the house for cover. Fire and medic assistance was requested immediately. Officer Tiner yelled, "Suspect, show me your hands, crawl up towards the sound of my voice." Sergeant Edgerton and Officer Cox were removed from the scene. Other officers determined Richards was not moving and obtained a large ballistic shield for safety. They approached Richards, placed him in handcuffs, and immediately provided medical assistance and cardiopulmonary resuscitation.

At approximately 3:24 a.m., Sacramento Fire Department and Medic personnel arrived at the scene to provide medical treatment. Richards was pronounced deceased at 3:31 a.m.

Investigators recovered a fixed-blade knife tucked into a homemade sheath on Richards' person. A black pellet gun that resembled a SIG Sauer handgun was also located on Richards' lap. Investigators later found a black sweatshirt, white surgical mask, and black sunglasses on the ground next to Richards. Fourteen silver .223 caliber expended cartridge casings were recovered in the backyard of 2017 1st Avenue near the north wall of the residence. Two additional .223 caliber expended cartridge casings were recovered nearby in the northwest area of the backyard.

Investigators also recovered Richards' backpack and duffel bag near 20th Street and Broadway. The bags contained miscellaneous papers, clothing, and toiletries.

According to the report of the Sacramento County Coroner, Richards suffered gunshot wounds to his left temple, right hand, left arm, left forearm, left fingers, left thigh, left leg, and left shin. The cause of Richards' death was gunshot wounds to the head and extremities.

An aerial video from the California Highway Patrol Aircraft Unit was reviewed. The video depicts Richards running south on 20th Street past Burnett Way, then east into the backyard of a residence. Richards then climbed over a fence east of 20th Street. Richards climbed back over the fence and went southbound through the yard of another residence before he disappeared from view.

Officer Tippets' in-car camera video was reviewed. Officer Tippets was driving his patrol vehicle on Broadway at approximately 23:38:00.¹ As he drives westbound, the video shows Richards dropping a black bag on the south sidewalk of Broadway and fleeing westbound.

¹ Times noted refer to timestamps on the video. "23:38:00" appears to indicate military time, or 11:38 p.m.

Officer Tippets follows Richards as he turns left on 20th Street and continues to run southbound eventually disappearing into a backyard of a residence on the east side of the street.

Officer Sanguinetti's in-car camera video was also reviewed. At approximately 23:38:30, the video depicts Officer Sanguinetti driving on Broadway and making a right turn at southbound 20th Street. The officer then turns left at Burnett Way and turns right into an alley. Officer Sanguinetti drives down the alley and parks his vehicle at the rear of a residence. At approximately 23:39:05, the video shows Richards emerging from the rear of this residence wearing a dark hoodie and white mask. Officer Sanguinetti yells for Richards to show his hands. Richards unsuccessfully attempts to climb the nearby fence of another yard, turn towards Officer Sanguinetti, and pauses. Officer Sanguinetti states, "Get on the ground. Get on the ground." Richards is holding a dark object in his right hand and flees around the corner of the residence. Officer Sanguinetti announces to dispatchers, "He still has the gun in his hand...I repeat, he still has the gun in his hand."

Officer Cox's body-worn camera video was reviewed. The video timestamp shows the officers releasing the K-9 into the backyard to search for Richards at approximately 10:10:14.² Officer Cox enters the backyard and makes an immediate right towards the stairs at approximately 10:11:48. He shines his light towards and looks underneath the stairs. At approximately 10:12:15, the officers yell, "Show me your hands" and "Put the gun down." Multiple gunshots are subsequently heard in the background. Sergeant Edgerton is observed firing gunshots from the right of Officer Cox. A barbeque grill obstructs the view of Richards sitting under the stairs.

The body-worn cameras of Sergeant Edgerton and Officer Tiner did not capture the shooting incident.

LEGAL ANALYSIS

A peace 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 detain or arrest the person, to prevent the person's escape, or to overcome the person's resistance. (California Penal Code section 835a; CALCRIM 2670.) An officer who detains or arrests a person does not need to retreat or stop his or her efforts if the person resists or threatens resistance. Moreover, using reasonable force does not make the officer an aggressor or cause him or her to lose the right to self-defense. (California Penal Code section 835a.) The person being detained or arrested has a duty to permit himself or herself to be detained, and the person must refrain from using force or any weapon to resist arrest. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; California Penal Code section 834a; CALCRIM 2670, 2671, 2672.)

In the present matter, Richards pointed what appeared to be a real handgun at three people walking down a public street. Officers had reasonable cause to detain Richards on suspicion of felony assault and brandishing offenses. Officer Tippets observed Richards walking on

² The Sacramento Police Department officers were equipped with Axon body cameras. The Axon cameras' timestamp utilizes Zulu Time. Seven hours are deducted from Zulu Time to show Pacific Daylight Saving Time, which in this instance was 3:10 a.m.

Broadway, so he pursued Richards. After seeing Tippetts' patrol vehicle, Richards ran away into the residential neighborhood and climbed over fences to evade detention. Officer Sanguinetti then observed Richards holding the gun in the alley behind 20th Street and ordered him to show his hands and get on the ground. Richards fled again, continued to climb over fences, and eventually hid in the backyard at 2017 1st Avenue. Richards had a duty to submit to arrest. He failed to do so and instead continued to escape.

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.)³ 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. (*Graham v. Connor* (1989) 490 U.S. 386.)

Here, Sergeant Edgerton and Officer Cox believed that Richards possessed a real gun based on information provided by witnesses, dispatchers, and Officer Sanguinetti, as well as their own observations when they located Richards sitting down under the staircase holding a black gun. Although Officer Cox ordered Richards to drop the gun and show his hands, Richards refused to do so. Instead, he raised the gun towards Officer Tiner. Sergeant Edgerton and Officer Cox believed Richards was going to fire his gun at them or Officer Tiner, so they used deadly force against Richards. Under these facts, it cannot be said that Sergeant Edgerton and Officer Cox were unreasonable in their belief that they and Officer Tiner were in imminent danger and feared for their safety when they discharged their duty weapons at Richards.

CONCLUSION

Sergeant Edgerton and Officer Cox were justified in shooting Richards in self-defense and in defense of Officer Tiner. Under these circumstances, their conduct was reasonable. Accordingly, we find the shooting to be lawful and will take no further action in this matter.

cc: Sacramento Police Department Detective Bryan Alonso #803
Sacramento Police Department Sergeant Todd Edgerton #3131
Sacramento Police Department Officer Patrick Cox #680
Office of Public Safety Accountability
Kimberly Gin, Sacramento County Coroner's Office

³ This incident occurred prior to California Assembly Bill 392's amendments to Penal Code sections 196 and 835a. Therefore, this incident is analyzed under the law as it existed at the time of the events.