



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Rod Norgaard
Chief Deputy

Michael M. Blazina
Assistant District Attorney

DATE: April 14, 2022

TO: Chief Kathy Lester
Sacramento Police Department
5770 Freeport Boulevard
Sacramento, CA 95822

FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case No. SPD-20-109783
Shooting Officer: SPD Officer Connor Lawrence #267
Shooting Officer: SPD Officer Brandon Lundgren #970
Person Shot: Malcolm Wilcox (DOB: 3/15/1993)

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 shootings by Sacramento Police Department Officers Connor Lawrence and Brandon Lundgren that resulted in injuries to Malcolm Wilcox. For the reasons set forth, we conclude that the shootings were lawful.

The District Attorney's Office received and reviewed written reports and other documentary items. These items include Sacramento Police Department Report 20-109783, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, and medical records.

FACTUAL SUMMARY

On April 11, 2020, Sacramento Police Department Officer Connor Lawrence was working patrol in South Sacramento. He was wearing a full Sacramento Police Department uniform and driving a marked patrol vehicle.

Officer Lawrence received a bulletin on his in-car computer regarding an armed and dangerous subject. The bulletin stated that an arrest warrant was active for a subject named Malcolm Wilcox for a charge of attempted murder that had occurred the previous day in Marysville. The bulletin stated that Wilcox had kicked in the door of his ex-girlfriend's home, assaulted her, and fired gunshots at the ex-girlfriend's current boyfriend before Wilcox fled in a newer red 4-door sedan. The bulletin provided a known address for Wilcox on Jenich Court in Sacramento.

Officer Lawrence drove to that address on Jenich Court and arrived at approximately 4:34 p.m. He saw a red sedan parked in the driveway with another car parked behind it. Officer Lawrence ran a records check on Wilcox and located a photograph taken of Wilcox in 2017. Officer Lawrence ran a records check on the residence and located a prior call for service at that address involving Wilcox possibly being “5150.”

Officer Lawrence notified his sergeant that the red car of the wanted subject was in the driveway at the address on Jenich Court. The sergeant then began to make arrangements for other officers to respond and assist in taking Wilcox into custody on the outstanding warrant.

As Officer Lawrence was on the phone with other officers, he noticed a silver car driven by a black male adult leave Jenich Court and drive west towards Franklin Boulevard. The driver of the silver car appeared to have longer hair than Wilcox had in the photograph taken in 2017.

The silver car then made a U-turn and drove back towards Officer Lawrence. The car drove at approximately 10 miles per hour and Officer Lawrence saw that the driver’s side window was open. The car passed very close to Officer Lawrence’s patrol car, and the driver looked the officer in the eye as he passed. Officer Lawrence had Wilcox’s photograph up on his in-car computer screen as the silver car passed and he was able to positively identify the driver of the car as being Malcolm Wilcox. Officer Lawrence was very concerned about the danger, so he released the retention strap on his holster as the silver car slowly and closely passed his position.

Officer Lawrence began to follow the silver car. He notified his sergeant so that additional units could be sent to assist.

At approximately this time, Sacramento Police Department Officer Brandon Lundgren was on patrol near Mack Road and Center Parkway, in full uniform and driving a marked patrol vehicle. He heard the update that the wanted subject in the Marysville attempted murder was located and started to drive south to assist Officer Lawrence.

Wilcox drove the silver car to the Foods Co. shopping center located on West Stockton Boulevard in Sacramento, as Officer Lawrence followed behind.

As Wilcox drove, Officer Lawrence broadcast updates with the direction of travel. Sacramento Police Department Sergeant Jeffrey Rath advised that the plan was to perform a felony stop on Wilcox with three patrol vehicles displaying lights and sirens. Officer Lundgren activated his lights and siren and followed Officer Lawrence’s updates to the shopping center on West Stockton Boulevard.

Wilcox drove to the gas station pumps located in the southwest corner of the shopping center. All the gas pumps were occupied, and Wilcox stopped behind a car parked at one of the pumps. Backup units had not yet arrived, and Officer Lawrence felt he was committed to making the stop of Wilcox by himself.

Officer Lawrence activated the overhead lights on his patrol vehicle. As Officer Lawrence began to get out of his car to approach Wilcox, Wilcox made a three-point turn in his car and

began to drive away from the gas pumps. Officer Lawrence got back into his car, turned to follow, and activated the siren on his patrol vehicle. Wilcox accelerated away from the gas station in the parking lot, with Officer Lawrence behind him.

Officer Lundgren checked his in-car computer screen as he drove to assist and saw that no other patrol units were close to Officer Lawrence and that he would be the first to arrive. As Officer Lundgren pulled into the shopping center, he heard Officer Lawrence advise that the suspect was attempting to drive away. As Officer Lundgren turned towards the gas station, he saw Wilcox's silver car cross right in front of him, with Officer Lawrence immediately behind it. Officer Lundgren then turned northbound to follow.

Wilcox suddenly stopped the silver car after traveling a short distance, approximately 50 yards. Officer Lawrence stopped behind the silver car. Officer Lundgren stopped to the left of Officer Lawrence.

Wilcox got out of the driver's side door of the silver car and walked approximately three steps towards Officer Lawrence's patrol car. Wilcox reached into his waistband and withdrew a firearm. Officer Lawrence believed that Wilcox was going to try to kill him.

Officer Lawrence withdrew his own firearm while still seated in his patrol vehicle. Wilcox began firing towards Officer Lawrence, and Officer Lawrence returned fire through the windshield of the patrol car.

Officer Lundgren put his car into park, opened the driver's door, and stepped into the wedge behind the open door as Wilcox fired at Officer Lawrence. Officer Lundgren believed that Wilcox was trying to kill Officer Lawrence, so he fired several rounds at Wilcox.

As Officer Lundgren was firing, Wilcox turned and ran northwest through the parking lot, running approximately 50 yards away. Wilcox continued to carry the firearm in his right hand as he ran. As Wilcox was running away, Officer Lundgren continued to fire at Wilcox until his magazine was empty.

Officer Lundgren reloaded his firearm, and both officers took cover behind a Toyota Sequoia. Officer Lawrence told the occupants of the Toyota to get out and take cover behind his patrol vehicle. Officer Lawrence fired additional rounds at Wilcox from behind the Toyota.

Officer Lundgren was to the right of Officer Lawrence. He was aware that using a pistol accurately from a distance of 50 yards is very difficult, so he armed himself with a rifle. He retrieved the rifle from Officer Lawrence's patrol vehicle as it was closer than his own vehicle. He then returned to a position to the right of Officer Lawrence behind the Toyota.

Both officers saw Wilcox lying on the ground, on his stomach, in a shooting position, and both officers could hear additional rounds being fired by Wilcox. Officer Lundgren then fired one round at Wilcox with the rifle. After the rifle shot was fired, Wilcox raised both his hands into the air and dropped his firearm.

Officers directed Wilcox to roll away from the firearm. Officer Lawrence was concerned that Wilcox would pick up the weapon and continue to fire, or attempt to commit “suicide by cop.”

Other responding officers assembled a team to approach Wilcox. Wilcox complied with officers’ commands and rolled away from the firearm. The team of officers approached, secured the firearm, handcuffed Wilcox, and began to provide medical assistance.

As officers did so, Wilcox stated, “Let me die. Leave me alone. Let me die. Shoot me again. Leave me alone!”

A civilian eyewitness was interviewed. She indicated that she was standing by the Quick Quack car wash to the south of the gas station when she saw two patrol vehicles trying to pull over a silver sedan. She saw the driver of the silver sedan get out of the driver’s seat and shoot at the officers first, with both officers then returning fire. She saw the subject run from the officers, fall to the ground, raise the gun, and shoot approximately four more times at the officers while lying on the ground.

A second civilian witness was located by the gas station. She also saw the driver get out of the silver sedan and start firing at the police officers. A third civilian eyewitness was approximately 15 feet away from Wilcox’s silver sedan when it came to a sudden stop in the parking lot. The witness was in the next parking aisle to the east. The witness stated that as the suspect’s car came to a stop, the suspect got out of his car and started firing at the officers immediately. Multiple additional witnesses gave similar statements.

Wilcox was transported to Kaiser Hospital in South Sacramento. After being advised of his Miranda rights, Wilcox was interviewed in the Intensive Care Unit the next day. He stated that his intention was to kill himself or to have officers do it for him. He said he had a gun with him when he left his girlfriend’s house on Jenich Court. He said that he noticed the officer following him and decided that was how he could get himself killed.

Wilcox noticed that the officer followed him all the way to the gas station. Wilcox claimed he got out of his car and faced the officers “so that they could shoot me.” He stated he raised the gun up but denied pointing it at the officers. He admitted firing several shots. He stated he was struck by gunfire as he ran away but claimed he did not remember anything that happened after that. He stated he did not remember firing his gun at officers as he was lying on the ground.

When Wilcox was taken into custody, officers located a small Ruger .380 caliber semi-automatic handgun on the ground with an empty magazine. Crime scene investigators located six spent .380 casings in the parking lot: two were found by the open door of Wilcox’s silver sedan, one was found approximately 30 feet northwest of the silver car, along the direction that Wilcox ran, and three casings were found where Wilcox was taken into custody about 50 yards northwest of his car.

A round count was conducted of both officers’ firearms. Fifteen rounds were fired from Officer Lawrence’s Glock 17 9mm pistol. Eighteen rounds were fired from Officer Lundgren’s Glock

17 9mm pistol. One round was fired by Officer Lundgren from Officer Lawrence's .223 caliber rifle.

Medical records showed that Wilcox received three gunshot wounds: one to the thigh in his left leg, one to his right upper back, and one to the back of his head. According to Dr. James Bechar, the wound to the back of Wilcox's head left four small holes. The doctor believed that the holes were caused by one bullet or fragments that struck Wilcox.

The shots fired by Malcolm Wilcox and by Officers Lawrence and Lundgren were captured by the in-car cameras and body-worn cameras of the two officers.

Officer Lawrence's in-car camera shows the officer following the silver sedan at normal speeds into the shopping center and to the gas station at approximately 4:38 p.m. Officer Lawrence stops his patrol vehicle a few feet behind the silver sedan. The silver sedan almost immediately begins to make a three-point turn and begins to drive away as Officer Lawrence states, "He's about ready to take off on me."

Officer Lawrence activates his siren as Wilcox starts driving rapidly away from the gas pumps, traveling northbound through one of the shopping center parking aisles. After approximately 50 yards, Wilcox skids the silver sedan to a sudden stop. Officer Lawrence stops about 20 feet immediately behind.

Wilcox is seen on the video getting out of the silver sedan, turning towards Officer Lawrence, removing an object from his right front pants pocket, pointing it towards Officer Lawrence's vehicle, and firing twice. The sound of gunfire is heard from inside the vehicle as Officer Lawrence returns fire while still in the driver's seat, firing through his front windshield. Additional shots are heard from outside the vehicle, though Officer Lundgren cannot be seen on the screen. Wilcox then turns to run away from the officers in a northwest direction, as Officer Lundgren continues to fire. Officer Lawrence broadcasts, "Shots fired, shots fired!"

The camera view remains facing northbound. Wilcox has run out of the field of vision of the screen. Officer Lawrence begins to issue commands to Wilcox, then says, "He's got a gun!" Additional gunshots are heard in the distance. Wilcox is taken into custody off screen.

Officer Lawrence's body-worn camera depicts Officer Lawrence's steering wheel and dashboard while he is inside the car. However, the audio is consistent with the events as described above.

Officer Lundgren's in-car camera shows Officer Lundgren pulling into the shopping center parking lot and turning towards the gas station just as Wilcox and Officer Lawrence cross in front of him. Officer Lundgren follows behind for approximately six seconds before Wilcox comes to a sudden stop. Officer Lundgren pulls around to the left of Officer Lawrence's vehicle and comes to a stop facing slightly northwest. As his patrol vehicle is coming to a stop, the driver's side door of the silver sedan is momentarily seen opening. As Officer Lawrence's patrol vehicle is still moving, the forward-facing video does not show Wilcox getting out of the silver sedan.

Multiple gunshots are heard, and Wilcox is then seen running northwest away from the officers. The rear window of a parked Toyota Sequoia is shattered by gunfire from one of the officers as Wilcox flees.

Both officers approach the Toyota and direct the occupants to get out and take cover as additional shots are fired. Officer Lundgren can then be seen approaching the rear of the Toyota armed with a rifle. He fires one round in the direction where Wilcox had fled. Thereafter, two additional rounds are heard.

Officer Lundgren's body-worn camera video shows the steering wheel and dashboard until Officer Lundgren gets out of the patrol vehicle. At that point, he hurriedly puts the car into park and gets out of the driver's side door as multiple gunshots are heard. Officer Lundgren can then be seen raising his gun up in front of him and firing multiple rounds. Wilcox is not visible.

Officer Lundgren then moves to the parked Toyota SUV. Multiple additional gunshots are heard as Wilcox is seen running northwest through the parking lot. Officer Lundgren retreats to his patrol vehicle, then returns to the SUV as he places a fresh magazine in his handgun. He directs the occupants of the SUV to get out of the car.

Officer Lundgren then goes to Officer Lawrence's car and retrieves a rifle. He takes a position behind the SUV and takes aim to the northwest. Officer Lundgren fires one round with the rifle. Two additional rounds are then heard being fired off-camera. Officer Lundgren moves and takes a position behind Wilcox's silver sedan as other officers are heard shouting commands to Wilcox. No additional shots are fired.

An additional video taken by a civilian eyewitness was reviewed. As the video begins, Wilcox is lying on his stomach in the parking lot, facing southeast towards the officers. Wilcox raises his gun in front of him in a shooting position and appears to fire two rounds towards the officers. Wilcox then drops the gun, turns to his right, and begins to crawl away before the video ends.

Wilcox was arrested and is currently pending charges related to this incident in Sacramento County Superior Court case number 20FE006585. He is charged with two counts of violating Penal Code section 664/187 (attempted murder) and one count of violating Penal Code section 29800(a)(1) (felon in possession of a firearm.)

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. (California Penal Code section 835a(b); 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; 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. (California Penal Code section 834a; *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, Officer Lawrence had received a bulletin on his in-car computer notifying him of an active arrest warrant for Malcolm Wilcox for a charge of attempted murder committed the previous day in Marysville. The details of the bulletin stated that Wilcox had broken into the home of his ex-girlfriend, assaulted her, and fired gunshots at the ex-girlfriend's current boyfriend.

Officer Lawrence drove to Wilcox's known address on Jenich Court. He accessed identifying information on Wilcox, including a photograph. As he did so, he saw Wilcox drive past his location twice. The second time, Wilcox drove by slowly with his window down and he looked directly at Officer Lawrence. Officer Lawrence was able to positively identify Wilcox as the wanted subject.

Officer Lawrence had a responsibility to apprehend Wilcox on the active warrant. Officer Lawrence followed Wilcox's vehicle until additional officers could arrive to assist. However, Wilcox attempted to flee from Officer Lawrence at the gas pumps before the additional officers could arrive. Officer Lawrence and the just-arriving Officer Lundgren activated their sirens to detain Wilcox. Wilcox had a duty to permit himself to be detained. He chose not to do so. Instead, Wilcox stopped his car, got out, and fired two shots towards the officers from a distance of only approximately 20 feet.

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

Here, Wilcox's decision to fire at the officers from approximately 20 feet away in a crowded shopping center constituted an immediate danger of death or serious bodily injury to the officers and to the surrounding members of the public.

Officer Lawrence was reasonable in returning fire at Wilcox through the windshield of his patrol vehicle as Wilcox had just fired two rounds at him.

Officer Lundgren was reasonable in returning fire at Wilcox, in self-defense and in defense of Officer Lawrence and the surrounding public, as Officer Lundgren was immediately to the left of Officer Lawrence when Wilcox started shooting.

After Wilcox fired his first two rounds towards the officers immediately after exiting the silver sedan, Wilcox turned and began to run away from the officers. Officer Lundgren continued to fire at Wilcox as Wilcox ran to the northwest. Under the applicable legal authority, Officer Lundgren acted lawfully when he did so.

California Penal Code section 835a(c)(1)(B) provides that a peace officer is justified in using deadly force upon a fleeing person if the officer reasonably believes, based on the totality of the circumstances, that such force is necessary “to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another person unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has reasonable grounds to believe the person is aware of those facts.”

Here, both officers were aware that Wilcox was wanted out of Marysville for a charge of attempted murder. Officer Lawrence had confirmed that the arrest warrant detailed that Wilcox had actually fired gunshots at his ex-girlfriend’s current boyfriend. Further, when Officer Lundgren fired at Wilcox as Wilcox turned and ran away, Officer Lundgren was also attempting to stop Wilcox for the attempted murders he had just committed in firing at the officers.

Prior to the use of force, Officers Lawrence and Lundgren identified themselves as peace officers through the deployment of the sirens on their marked patrol vehicles. Wilcox responded to the sirens by getting out of his car and opening fire on the uniformed officers. Given all of these circumstances, it was reasonable for both officers to believe Wilcox would shoot someone else if he was not immediately apprehended and to believe that Wilcox was aware that deadly force would be used to apprehend him.

Finally, Officer Lundgren was reasonable in firing one round with the rifle as Wilcox was lying on the ground to the northwest, approximately 50 yards away. Wilcox had ignored officers’ commands to drop the weapon and move away from it. Instead, as captured on the eyewitness video, Wilcox fired towards the officers as he was lying on his stomach on the ground. As such, Wilcox continued to pose an active and immediate danger to the officers and the public.

CONCLUSION

Malcolm Wilcox had an active arrest warrant for attempted murder. When Officers Lawrence and Lundgren attempted to take him into custody for that offense, Wilcox opened fire on them to prevent them from doing so. His actions unquestionably constituted an immediate danger of death or serious bodily injury to the two officers and the members of the public present in the shopping center. Therefore, Officers Lawrence and Lundgren acted lawfully in utilizing deadly

force to confront the threat being posed by Wilcox. Accordingly, we will take no further action in this matter.

Cc: Sacramento Police Department Officer Connor Lawrence
Sacramento Police Department Officer Brandon Lundgren
Sacramento Police Department Detective Brian Murawski
Office of Public Safety Accountability