



Sacramento County District Attorney's Office

THIEN HO
District Attorney

DATE: December 4, 2024

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

FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case No. SPD-23-231441

Shooting Officers: SPD Officer Keegan Hironaka #463
SPD Officer Kevin Lucas #478

Person Shot: Dante Dwaine Day (D.O.B. 8-25-1978)

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 Dante Day. 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 23-231441, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, and Sacramento County District Attorney's Office Laboratory of Forensic Services reports.

FACTUAL SUMMARY

On August 15, 2023, at approximately 5:07 p.m., the Sacramento Police Department (SPD) received multiple 9-1-1 calls for service regarding a subject carrying a machete or a large knife on a light rail train at the Sacramento City College light rail station located at 3801 24th Street. The subject was described as a male black adult, 45-50 years old, tall, and muscular.

At approximately 5:15 p.m., SPD Officers Keegan Hironaka, Kevin Lucas, David Daus, and Daniel Bartlett arrived at the scene. The officers were dressed in full SPD uniforms with visible department sleeve patches and badges. Officer Hironaka was armed with a Glock 34 9mm handgun, Officers Lucas and Daus were armed with Glock 17 9mm handguns, and Officer Bartlett was armed with a Sig P320 9mm handgun. The officers had their body-worn cameras activated during their contact with Day.

The officers entered the train and located a subject who matched the description, later identified as Dante Day, sitting inside. Day was talking with a passenger who was seated near him. Officers directed the passenger to leave the train for his safety.

Officer Hironaka stood approximately 15-20 feet from Day and engaged him in conversation. Although officers initially did not see a knife, Day pulled a large knife out of his waist area and held it in his right hand. (See Photo #1¹)



Photo #1

Officer Hironaka repeatedly told Day that they were there to help him, that no one wanted to hurt him, and to drop the knife. Day became increasingly agitated and began screaming loudly. At one point, Day can be heard on the officer's body-worn camera video stating, "I can't do nothing. I can't do nothing. I can't drop it. Do it. Please. Please. Just do it. Please just do it. Please just do it. Please just do it. Please. Please just do it. Lord. Just kill me."

Officer Hironaka instructed Officer Lucas, "If he stands up, less lethal." Officer Lucas armed himself with his less-than-lethal shotgun that was loaded with bean bag rounds. He stood inside the train by the exit door approximately 10-12 feet away from Day.

Day continued to be very agitated and became more animated. He struck the train window multiple times with the butt-end of the knife. Day then stood up with the knife in his hand. (See Photo #2)

¹ Photographs are screenshots taken from officers' body camera videos.



Photo #2

Officer Lucas discharged three bean bag rounds from his less-than-lethal shotgun and struck Day multiple times, causing Day to fall back on the train bench. Day then yelled and ran forcefully and directly toward the officers with the knife in his hand. (See Photo #3)



Photo #3

Officer Hironaka feared for the safety of himself and his fellow officers, believing that Day was going to attack them with the knife. Officer Hironaka did not retreat because he knew Day was running faster than Officer Hironaka could get away. As Day approached, he was approximately 6-8 feet away from Officer Hironaka. Officer Hironaka discharged his firearm seven times in quick succession and struck Day, causing him to fall to the floor of the train.

Day continued to scream. Day stood up, walked back to his original spot, and maintained his grip on the knife. Officers yelled at Day to drop the knife. Day did not drop the weapon. (See Photo #4)



Photo #4

Officer Lucas had observed Day look at him while on the ground, get up with the knife in his hand, and start moving forward. Officer Lucas feared for his safety and the safety of his fellow officers, believing that Day was going to try to attack them again with the knife. Officer Lucas discharged his firearm six times in quick succession and struck Day, causing him to fall to the floor of the train.

Officer Hironaka said over the radio, “Shots fired,” and called for a medical kit. Officers Hironaka and Lucas put on latex gloves to provide medical aid to Day.

SPD Sergeant Paul Fong arrived on the scene and formed a contact team. The officers used a tactical shield as they approached Day. Officers located a silver-handle hunting knife near Day. The officers secured the knife and provided medical care to Day.

Officers also located a brown leather wallet that contained a small plastic bag with .34 grams of methamphetamine inside Day’s shorts pocket.

The Sacramento Fire Department arrived on scene. Fire personnel declared Day deceased at approximately 5:47 p.m.

On August 16, 2023, officers contacted Day’s next of kin. She stated Day had been diagnosed with Schizophrenia and she had not seen him in years.

A round count and examination of casings recovered at the scene established that Officer Hironaka fired seven rounds from his Glock 34 9mm handgun and Officer Lucas fired six rounds from his Glock 17 9mm handgun and three shells from his less-than-lethal shotgun.

Body-worn camera videos from Officers Hironaka, Lucas, Daus, and Barlett and video from the train security camera system were reviewed. The videos depict Day standing up with the knife in his hand and Officer Lucas discharging bean bag rounds and striking Day multiple times, causing Day to fall back on the train bench. Day then forcefully runs towards the officer with the knife in his hand. Officer Hironaka discharged his firearm, striking Day and causing him to fall to the train floor. Day moves back to his original location, gets up with the knife in his hand, and begins to move forward. Officer Lucas discharged his firearm, striking Day and causing him to fall to the train floor.

An autopsy was performed by Dr. Peter Connor, a certified pathologist with the Sacramento County Coroner's Office. Dr. Connor determined Day sustained ten gunshot wounds: three to the chest area, one to the head, one to the abdomen, three to the back, one to the left leg, and one to the left pelvis. Dr. Connor also determined Day's cause of death to be gunshot wounds to the chest area and head.

A sample of Day's femoral blood was taken during the autopsy. The sample was tested by the Sacramento County District Attorney Laboratory of Forensic Services. The results of the testing confirmed the presence of methamphetamine and amphetamine, as well as a blood alcohol level of .029%.

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, officers responded to multiple 9-1-1 calls stating a man was carrying a machete or a large knife on a light rail train. Responding officers located Day, who matched the description given, sitting in the train. Officers engaged Day in conversation, attempting to de-escalate the situation. During the conversation, Day pulled a large knife out of his waist area and held it in his right hand. Day was agitated and screaming.

Officer Hironaka repeatedly told Day they were there to help him, no one wanted to hurt him, and to drop the knife. Day became increasingly agitated and forcefully struck the train window multiple times with the butt-end of the knife.

Day then stood up with the knife in his hand. Officer Lucas discharged three bean bag rounds from his less-than-lethal shotgun and struck Day multiple times, causing Day to fall back on the

train bench.

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.)

After being hit with multiple bean bags, Day arose again with the knife in his hand and ran forcefully and directly at the officers. He came within 6-8 feet of Officer Hironaka, who did not have time to retreat, so he discharged his firearm seven times in quick succession and struck Day, causing him to fall to the floor of the train. Officer Hironaka was justified in believing he needed to take immediate action to prevent Day from attacking him and his fellow officers with the knife.

After being struck by rounds fired by Officer Hironaka, Day once again stood up with the knife still in his hand. Officers yelled at Day to drop the knife, but he still possessed the weapon. At this point, Officer Lucas was only approximately 10-15 feet away from him, well within what law enforcement studies have shown as a zone of danger for dealing with individuals with knives.² Officer Lucas discharged his firearm six times in quick succession. Officer Lucas was justified in believing he needed to take immediate action to prevent Day from again trying to attack them with the knife.

Given Day's previous actions of becoming agitated and holding a knife, running directly towards officers and coming within 6-8 feet of Officer Lucas, standing up after being shot, and refusing to drop the knife upon officers' command, the lethal actions of Officers Hironaka and Lucas were justified to protect their safety and the safety of their fellow officers.

CONCLUSION

Officers encountered Day on the light rail train brandishing a large knife. Day became increasingly agitated despite de-escalation measures and charged at the officers with the knife in his hand. This created an immediate danger of death or great bodily harm to the officers on scene. After Officer Hironaka fired gunshots at Day, he again got back on his feet with the knife still in his hand, continuing the immediate danger of death or great bodily harm to the officers.

² This is sometimes referred to as the "Tueller Rule" because its origin is based on the research of Sgt. Dennis Tueller of the Salt Lake City Police Department. Various law enforcement research and training resources address the danger of dealing with a suspect armed with an edged weapon at 20 feet or less.

Officer Lucas then fired additional gunshots at Day. Both officers reasonably feared for their safety and the safety of other officers. Under these circumstances, the decisions to use deadly force were justified. Accordingly, we will take no further action in this matter.

Cc: SPD Officer Keegan Hironaka #463
SPD Officer Kevin Lucas #478
SPD Detective Scot Krutz
LaTasha Watson, Office of Public Safety Accountability
Rosa A. Vega, Sacramento County Coroner's Office