



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-22-183665
Shooting Officer: SPD Officer Alex Wagstaff #922
Person Shot: Michael Rodger Moore (D.O.B. 6-29-1947)

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 Michael Rodger Moore. 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 number 22-183665, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, Sacramento County Coroner report, and Sacramento County District Attorney's Office Laboratory of Forensic Services reports.

FACTUAL SUMMARY

On June 27, 2022, Michael Rodger Moore's wife called 9-1-1 regarding his erratic behavior. She informed the operator that Moore had been experiencing dementia and hallucinations and he used a skillet to break their sliding glass window. Moore's wife was hiding in their bathroom for her safety. She told the operator that she believed Moore could harm her if he was "confused enough" and she was unsure if he would be violent towards the police. Officers were dispatched to Moore's residence, and he was voluntarily transported to the hospital for an evaluation pursuant to Welfare and Institutions Code section 5150.¹ Moore did not meet the criteria to be temporarily detained and was allowed to return home.

On July 1, 2022, at approximately 10:30 p.m., Moore's wife woke up and observed Moore standing up in their bedroom looking at the wall. His wife attempted to speak with him, but Moore told her

¹ Welfare and Institutions Code section 5150 provides for an involuntary temporary detention for up to 72 hours for an individual experiencing a mental health issue that makes them a danger to themselves or others.

that he would have to kill her because she murdered his friends. Moore's wife feared Moore would harm her, so she locked herself in her bathroom and called 9-1-1. At approximately 10:55 p.m., Moore's wife informed the operator that she was locked inside her bathroom and Moore was threatening to kill her. At approximately 11:12 p.m., the garage door alarm was activated. A few minutes later, Moore's wife called 9-1-1 again to determine when officers would arrive at her home. She advised the operator that she was still locked inside the bathroom and did not know Moore's whereabouts. She also stated she heard a loud crash just prior to calling and Moore was still hallucinating.

At approximately 12:01 a.m., Moore's stepdaughter arrived at the residence with her husband to help her mother. Moore's stepdaughter had received a phone call from her mother stating she locked herself in the bathroom and was hiding from Moore. When Moore's stepdaughter and her husband arrived, they encountered Moore in the garage armed with a knife. Moore confronted them and asked why they were there. Moore's stepdaughter explained they were there because the security alarm was activated, and they just wanted to make sure everything was okay. Moore acted as if he did not know who they were, and he did not trust their intentions. They tried to reason with Moore to put the knife down. Moore went back inside the residence, still armed with the knife. At approximately 12:12 a.m., Moore's stepdaughter contacted 9-1-1. She advised Moore was armed with a large kitchen knife and threatened to kill her mom. She also stated Moore threatened to get his bow and arrow, but she was unsure if he had one.

Moore relocated to the front of the residence and stood in the threshold of the front door. Moore's stepdaughter and her husband also went to the front to engage with him while they waited for law enforcement. Moore threatened to throw the knife at his stepdaughter's husband. Moore picked up a large rock or boulder and threw it in the husband's direction. Moore continuously walked back and forth to the kitchen still armed with the knife. On one occasion, he came out with fruit, cut it up in front of them, and stated, "This knife is sharp." Moore then came out of the doorway and swept the knife on the ground as though he was sharpening it.

Sacramento Police Department (SPD) officers arrived on scene at approximately 12:23 a.m. Officer Alex Wagstaff engaged himself with Moore. Officers Ruben Hurtado, Jimmy Khang, Tyler Russell, and Nicholas Raleigh also responded. Moore was still armed with a knife when the officers initially encountered him. Officer Wagstaff was not aware that Moore's wife was locked inside of the bathroom. He heard Moore was armed with a knife and was trying to kill or threatening to kill her. Officer Wagstaff also received information from Moore's stepdaughter that there was a gun inside the home, but she was unsure where the gun was located. She was also afraid that Moore was going to kill her mother.

Officer Wagstaff identified himself by name and as an SPD Officer. Officer Wagstaff observed Moore playing with the front blade of the knife and swinging the knife around. Officer Wagstaff asked Moore to put the knife down and stated they were there to help. Within approximately five minutes of Officer Wagstaff engaging with Moore, Moore stated, "Go ahead and shoot me." Officer Wagstaff informed Moore that they were not going to do that, they did not want to hurt him, and they just wanted him to put the knife down. Officer Wagstaff asked Moore at least eleven times to put the knife down and come outside.

Approximately nine minutes later, Officer Wagstaff was advised that Moore's wife was still inside the residence hiding in the bathroom. The officers devised a plan that included using less lethal means to remove Moore from the residence and detain him. Officer Wagstaff confirmed that nearby officers had a taser and a beanbag shotgun. Moore continuously retreated into the home, went in the direction of the kitchen, and returned to the threshold of the front door. At one point, Moore returned from the kitchen and was armed with a second knife.

Officer Wagstaff's body-worn camera video depicts Moore clanging the knives together and refusing to comply with officers' directives to drop the knives and come outside. Officer Khang observed Moore rubbing the knives together back and forth in a sharpening manner. Moore came out of the threshold of the door and threw things towards the officers on a couple occasions. One of the items he threw was a glass beer bottle. Moore was also observed retreating into the home and walking in the direction of the bathroom where his wife was hiding.

Moore attempted to enter the bathroom, but his wife pressed her body against the door to keep him out. Moore yelled after he was unable to gain entry into the bathroom. When officers heard Moore yell, they quickly approached the residence. Moore reappeared at the front door with his arms outstretched, still holding both knives. Moore pointed the knives with the blades directed upward towards the officers and he was ordered to drop the knives. Officer Wagstaff instructed officers to grab their less lethal weapons. Officer Wagstaff had his firearm drawn. Moore yelled, "She lied to me! I saved her life, and she knows it!" Officers attempted to engage Moore and calm him down. He was told they just wanted to chat with him, and he was asked repeatedly to drop the knives. Moore was again informed the officers did not want to hurt him. Officer Wagstaff said, "Hey sir, please put the knives down." Moore responded, "No." Officer Wagstaff again stated, "Please put the knives down." Moore again responded, "No."

Approximately twelve minutes into this standoff, Moore stated, "I'm gunna get my girl." He retreated back into the home in the direction of the bathroom where his wife was hiding. Multiple officers yelled for him to not go there and to come to them, but Moore did not comply. At approximately 12:36 a.m., officers quickly approached the home and heard Moore's wife screaming from the bathroom. Officers Wagstaff, Khang, Hurtado, and Raleigh ran into the home towards the bathroom. Officer Wagstaff observed Moore in front of his wife pressing his body against her. Officer Wagstaff believed Moore was stabbing his wife. Moore's arm moved in a thrusting manner and Officer Wagstaff did not see the knives. Moore was pushed close against his wife, and it appeared to Officer Wagstaff that Moore's wife was about to be killed. Wagstaff yelled "Sir!" and fired four gunshots at Moore. In quick succession, Officer Khang deployed the beanbag shot gun and Officer Raleigh deployed his taser. As Moore fell to the floor, Officer Khang observed a knife fall on the ground right in front of his feet.

The officers removed Moore's wife from the bathroom and took her a safe distance away from Moore. She was checked for injuries and did not have any apparent stab wounds. She informed officers that Moore punched her in the stomach just as officers entered the bathroom and he dropped the knives in that process. She believed Moore was going to kill her.

Officers Russell, Hurtado and Raleigh rendered medical aid and cardiopulmonary resuscitation (CPR) to Moore. Officer Raleigh applied chest seals to Moore's open wounds. The second knife was located partially under Moore's body and was also moved away from Moore.

The Sacramento Fire Department arrived on scene and resumed rendering aid to Moore. Moore was transported to Kaiser Permanente South Sacramento Medical Center. At approximately 1:09 a.m., Moore was pronounced deceased by Dr. Jason London.

All relevant body camera footage was reviewed. The videos depict the events consistently with the description above.

An autopsy was performed by Dr. Jason P. Tovar, a certified pathologist with the Sacramento County Coroner's Office. Moore sustained four gunshot wounds to the following areas of his body: the left side of his chest, the right side of his upper back, the right axilla on the torso surface, and the right side of his abdomen in the mid axillary line. He also sustained a beanbag shotgun wound to the right side of his ribcage. This shotgun round caused a contusion and a rib fracture but was not fatal. Dr. Tovar determined Moore's cause of death to be a gunshot wound to the torso. Three projectiles were recovered in Moore's body during the autopsy. Crime scene investigators discovered a fourth projectile from Moore's personal items at the medical center.

A sample of Moore's femoral blood was taken during the autopsy. The sample was tested by a criminalist at the Sacramento County District Attorney Laboratory of Forensic Services. The lab results indicated the sample was negative for ethanol, but the results confirmed the presence of tramadol.²

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, Officer Wagstaff was dispatched with additional units to the residence because Moore threatened to kill his wife. When they arrived on scene, Moore was armed with a knife and unwilling to drop the weapon. Moore was agitated, speaking nonsensically, and even threw items such as a glass bottle towards law enforcement. Officers received information that Moore's wife was fearful he would harm her. Moore's wife was hiding in the bathroom for her safety and Moore tried to gain entry.

² Tramadol is an opioid medicine used to relieve moderate to moderately severe pain.

Officer Wagstaff repeatedly made efforts to de-escalate the situation and requested Moore drop the knife and leave the home peacefully. During these attempts, Moore armed himself with a second knife and clanged the knives together in a way that appeared to be baiting the officers. Moore informed the officers he was going after his wife and Moore broke into the bathroom she was hiding in.

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.)

Moore assaulted his wife after forcibly entering the bathroom. Moore's wife was heard screaming as she was attacked by Moore. Officer Wagstaff described it as a "shrieking scream" that led him to believe they were too late and Moore was murdering his wife. Officer Wagstaff entered the bathroom and was within arm's length of Moore. Officer Wagstaff observed Moore thrusting his arm into his wife's body. Officer Wagstaff could no longer see the knives. Officer Wagstaff observed Moore's wife screaming in pain and believed Moore was trying to kill his wife. Based on these observations, Officer Wagstaff fired four quick gunshots striking Moore.

Moore was aggressive, non-compliant with officers' commands, and threatened to kill his wife. He threw items towards the officers and was also armed with two knives. De-escalation techniques were ineffective. As Officer Wagstaff heard Moore's wife screaming and he entered the bathroom, Moore was making stabbing motions with his arm. Given these circumstances, Officer Wagstaff reasonably believed Moore was trying to kill his wife. Officer Wagstaff's actions were justified in protecting her safety.

CONCLUSION

Michael Rodger Moore threatened to kill his wife and armed himself with a knife, which prompted her to hide in their bathroom and call 9-1-1. Moore's stepdaughter also called 9-1-1 after she responded to the residence and encountered Moore armed with a knife. After SPD officers arrived, Moore eventually armed himself with a second knife. Moore consistently refused to drop the knives and come outside of the house, and he became more agitated over time.

Moore threw household items at the officers and clanked the knives together multiple times in a threatening/intimidating manner. He continued to try and enter the bathroom where his wife was hiding. Moore eventually entered the bathroom and assaulted his wife while armed with two

knives. Fearing for the safety of Moore's wife, Officer Wagstaff justifiably fired his weapon to subdue the deadly threat Moore presented.

Accordingly, we will take no further action in this matter.

Cc: SPD Officer Alex Wagstaff
SPD Detective Pamela Masee
LaTasha Watson, Office of Public Safety Accountability
Rosa A. Vega, Sacramento County Coroner's Office