

04-8629

MEMORANDUMSACRAMENTO POLICE DEPARTMENT

Professional Standards Unit



DATE: April 8, 2004

REF: PSU 04-01

TO: Albert Nájera  
Chief of Police

ATTN: Steve Segura, Deputy Chief  
Office of Investigations

Brian Louie, Captain  
Internal Affairs

FROM: David Hargadon, Sergeant  
Professional Standards Unit

RE: Shooting Review Disposition W04-01, W04-02

A shooting review was held on Wednesday, March 10, 2004. This review was conducted during the management session of Infocom. All findings were made with the concurrence of the Deputy Chief of Investigations. Those in attendance were:

Deputy Chief Segura  
Captain Mandalla  
Captain McCarthy  
Lt. Nenneman  
Lt. Schneider  
Lt. Campas  
Lt. Hahn  
Ofc. Wann

Deputy Chief Brazier  
Captain Louie  
Captain Somers  
Lt. Westin  
Lt. Matthes  
Lt. Tatosian  
Sgt. Hargadon  
Pete King

Captain Schiele  
Captain Parker  
Captain Mitchell  
Lt. Bray  
Lt. Moir  
Lt. Bernard  
Sgt. Enriquez  
Larry Nelson

The following are the recommendations and findings for each shooting:

W04-01

JUSTIFIED

Officer(s) involved  
Sgt. M. Cooper

Presenter  
Sgt. Enriquez

Division Commander  
Captain LaCrosse

On January 28, 2004, Sgt. Cooper was standing near his vehicle at 9<sup>th</sup>/J Street. He was contacted by a Downtown Guide regarding a subject who brandished a knife. The guide pointed to the suspect who

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was now about 30 feet away from Sgt. Cooper. The suspect had a knife sheath in his hand. The suspect started to walk away from Sgt. Cooper down the alley between 9/10 and J/K streets. Sgt. Cooper followed the suspect and ordered him to stop. The suspect stopped walking, pulled the knife out of the sheath, and turned towards Sgt. Cooper. The suspect started walking towards Sgt. Cooper. Sgt. Cooper ordered the suspect to stop and drop the knife with negative results. Fearing for his life, Sgt. Cooper fired two rounds at the suspect from his handgun. The suspect was struck once and subsequently died. The knife was recovered at the scene and multiple witnesses confirmed Sgt. Cooper's statement/actions.

**Recommendations:**

None



OFFICE OF THE  
**DISTRICT ATTORNEY**

SACRAMENTO COUNTY

**JAN SCULLY**  
DISTRICT ATTORNEY

CYNTHIA G. BESEMER  
CHIEF DEPUTY

June 23, 2004

Albert Najera  
Chief of Police  
Sacramento Police Department  
5770 Freeport Blvd  
Sacramento, CA 95822



Re: Officer-involved shooting: Case no. SPD 04-8629  
Shooting officer: Police Sgt. Mike Cooper #3094  
Person shot: Joseph Martin (DOB 03/22/1935)

Dear Chief Najera:

The circumstances of this case lead me to conclude that the shooting of Joseph Martin by Sgt. Cooper was clearly justified. In making this determination, I consulted the investigative records compiled by the Sacramento Police Department and the Sacramento County District Attorney's Office. I read report # SPD 04-8629 that documents the knife brandishing incident that led to the police contact, the subsequent assault on Sgt. Cooper by Joseph Martin that necessitated the shooting, and the follow-up investigation of these occurrences.

I also read reports prepared by Sacramento County District Attorney Investigators Joseph Juarez and Dave Poroli documenting their officer involved shooting investigation. In addition, I have received and reviewed ground level and aerial photographs taken of the scene and audiotapes and videotapes of the interviews of law enforcement and civilian witnesses to the events.

During my review of the civilian witness and officer accounts, I found them to be consistent regarding the significant details of the incident. Each of the civilians who watched the events unfold were of the opinion that Sgt. Cooper had no choice but to shoot to repel the attack of Joseph Martin. A close review of the facts gathered during this inquiry lead me to the same determination.

Chief Albert Najera  
June 23, 2004

FACTS:

On January 28, 2004 at approximately 9:40 a.m., [REDACTED] observed two men in a heated argument on K Street just east of 9<sup>th</sup> Street. [REDACTED] was working his shift as a uniformed Downtown Guide at the time. The shorter male suddenly brandished a large, sheathed hunting knife and threatened the taller male with it. The taller male immediately walked away. [REDACTED] addressed the man with the knife and asked him what was going on.

The man with the knife stated, and then repeated, "Murder". At that time, he began to walk towards northbound 9<sup>th</sup> street and told [REDACTED] to "go ahead and call and have them pick me up for murder." Downtown Guides wear distinctive, black, yellow and white uniforms so that they can easily be identified. [REDACTED] believed the man was directing him, in his capacity as an official guide, to call the police with the radio equipment he was wearing.

[REDACTED] reported the incident on his radio and asked for another guide to join him until police arrived. Because of his behavior and unstable demeanor, [REDACTED] continued to follow the man at a distance as he walked northbound on 9<sup>th</sup> on the west side of the street. The man again brandished the knife in its sheath as he crossed towards the alley that passes through from 9<sup>th</sup> to 10<sup>th</sup> between K and J Streets.

[REDACTED] spotted Sgt. Cooper outside of his vehicle in front of [REDACTED] J Street. Sgt. Cooper, an officer with over 30 years of experience in law enforcement, was assigned as the Problem Oriented Patrol (POP) Sergeant for that neighborhood and had just arrived a few minutes early for a work-related meeting at that address. The Sergeant's position was directly north of where the man with the knife was approaching. [REDACTED] contacted Sgt. Cooper and briefed him on what had occurred. Just prior to the briefing, Downtown Guide Supervisor [REDACTED] joined them. Sgt. Cooper looked to the man [REDACTED] was pointing out. He did not recognize him, but did see that he was in fact carrying a sheathed knife at this time.

Both Supervisor [REDACTED] and Sgt. Cooper yelled for the man to put down the knife and come over and speak with them. Sgt. Cooper was in a long-sleeved formal uniform with insignia, badge, and utility belt. Because he had planned to go to a meeting, he was not wearing a protective vest. When he called out to the man he was approximately 30 feet away. The man wheeled around and began to walk towards the entrance to the alley with the sheathed knife still visibly displayed. Sgt. Cooper notified dispatch of the circumstances, placed his paperwork in his patrol car, retrieved his baton and followed the man toward the alley.

Sgt. Cooper began repeatedly yelling at the man to stop and drop the knife. He ignored the orders. While moving away, the man repeatedly looked back at the officer before turning east into the alley out of view. Sgt. Cooper carefully followed him into the alley and regained sight of him. Two of the Downtown Guides followed the Sergeant at a close distance. The brandishing suspect was still moving eastbound through the alley with the sheathed knife in view. The orders to stop and drop the knife were reiterated by Sgt. Cooper.

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Instead of obeying, the man turned towards Sgt. Cooper, unsheathed the knife, and began to quickly close on him in an aggressive posture while pointing the blade toward the officer. At this point, Sgt. Cooper yelled more loudly "Put it down! You don't want to do this! Stop! Stop!" He then removed his service weapon from its holster and pointed it at the advancing man while loudly shouting for him to stop and put down the knife.

Despite the repeated commands, the man continued to quickly close on the officer and the two Downtown Guides with the knife pointed at Sgt. Cooper. The man advanced to within 12 feet of the officer and the guides. At this point, Sgt. Cooper discharged his pistol twice in an effort to protect himself and the guides from the man's armed assault. One shot struck the man in the abdomen, causing him to fall. The time of the shooting was approximately 9:50 a.m.

The knife fell out of his hand and came to rest near his body. Two Sacramento Police Department bicycle officers came up to assist right after the shooting. Sgt. Cooper called for medical assistance, moved towards the man who attacked him and held him at gunpoint. In addition, he kicked the knife away because the man was still conscious, moving, and appeared to be reaching for the weapon. The knife recovered was a large "Rambo" style survival knife with a sharp point, one bladed edge and one serrated edge.

After the knife was kicked away, the bicycle officers handcuffed him. While he was being treated, he lost consciousness. He was transported via ambulance to the U.C. Davis Medical Center accompanied by Sacramento Police Department Officer Hendrickson # 429. Prior to his arrival at the hospital, he was tentatively identified by documents found in his clothing as Joseph Martin with a date of birth of 03/22/1935. His roommate later confirmed his identity.

██████████ the emergency room treating physician, pronounced Joseph Martin dead at 10:12 a.m. on January 28, 2004. Dr. Stephany Fiory, M.D., a pathologist with the Sacramento County Coroner's Office indicated in her initial autopsy that the cause of death was from a single gunshot wound that entered the abdomen from the front and lodged in the decedent's body.

#### ANALYSIS:

In situations where it is reasonably necessary to defend oneself or others from death or serious bodily injury, the use of deadly force is appropriate and legally justified. (California Penal Code § 197, *People v. Ceballos* (1974) 12 Cal.3d 470, 482-483, CALJIC 5.13) The appearance of imminent death or serious bodily injury to oneself or others justifies deadly force where the fear is genuine, objectively reasonable and the basis for its use. (California Penal Code § 197(3), *In re Christian S.* (1994) 7 Cal.4<sup>th</sup> 768, CALJIC 5.14)

Here, Sgt. Cooper was compelled by the conduct of Joseph Martin to act with deadly force to defend himself and the Downtown Guides who were immediately behind him. His shooting of Joseph Martin to prevent him from using the brandished knife was clearly justified. Joseph Martin initially was moving away from Sgt. Cooper while continuing to hold the knife. This was

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despite repeated orders by Sgt. Cooper at gunpoint for Martin to put down the knife. Martin then turned and rapidly closed on Sgt. Cooper while unsheathing the hunting knife.

Sgt Cooper was genuinely fearful that if he didn't immediately shoot, Martin was going to attack and injure or kill him and the people who were present. Given the suddenness with which Martin turned and approached with the knife and his prior unstable and volatile conduct, the rational conclusion was that Martin intended to attack. Sgt. Cooper's only recourse under the circumstances was to shoot first to prevent Joseph Martin from harming them. His actions were reasonable under the circumstances.

CONCLUSION:

The shooting of Joseph Martin was clearly justified. No action will be taken by the district attorney's office against the officer in connection with this incident. Thank you for referring the matter for our review.

Very truly yours,

JAN SCULLY  
DISTRICT ATTORNEY

A handwritten signature in cursive script, reading "Alberto S. Roldan".

ALBERTO S. ROLDAN  
Deputy District Attorney  
Special Investigations Unit

cc: SPD Sgt. Mike Cooper  
SPD Lt. Steve Campas  
Don Casimere, Office of Police Accountability.

*City of*  
**SACRAMENTO**  
Police Department

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Chief of Police

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**Report Number: 2004-8629**

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Records or information wherein the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure (Cal. Gov. Code § 7922.000); and

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Records or information, the disclosure of which is exempted or prohibited pursuant to federal or state law (Cal. Gov. Code § 7927.705; see also Cal. Const. art. 1 Sec. 1;

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*The Mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property, solve neighborhood problems, and enhance the quality of life in our City.*