

MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit



DATE: April 11, 2006
REF: PSU 04-01

TO: Officer Lee Elson
FROM: Rudy Chan, Sergeant
Professional Standards unit
RE: Officer Involved Shooting - Review Disposition OIS# W06-01

The department reviewed the shooting incident that occurred on March 5, 2006. It was found that the shooting was justified.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

 #3040

Rudy Chan, Sergeant
Professional Standards Unit
Ph: 808-3791

MEMORANDUM**SACRAMENTO POLICE DEPARTMENT**

Professional Standards Unit

**DATE:** April 11, 2006**REF:** PSU 04- 02

TO: Albert Nájera
Chief of Police

ATTN: Steve Segura, Deputy Chief
Office of Operations/Investigations

FROM: Rudy Chan, Sergeant
Professional Standards Unit

RE: Shooting Review Disposition W06-01

A shooting review was held on Wednesday, April 5, 2006 during the management session of Infocom. All findings were made with the concurrence of the Deputy Chief, Office of Operations/Investigations. Those in attendance were:

Deputy Chief Segura

Capt. Parker

Capt. D. Schiele

Capt. Hann

Lt. Moir

Lt. Brown

Lt. Westin

Lt. Maccoun

Lt. Peletta

A/Lt. Kidd

Sgt. Lester

Claudia Evans

Jerry Enomoto (OPA)

Capt. LaCrosse

Capt. McCarthy

Capt. Matthes

Lt. Schneider

Lt. Quinn

Lt. Beerman

Lt. Reese

Lt. Johnson

Lt. Rehm

A/Lt. Pease

Sgt. Chan

John Green

Capt. J. Schiele

Capt. Somers

Capt. Louie

Lt. Bernard

Lt. Jensen

Lt. Sweeney

Lt. Campas

Lt. Dowden

Lt. Gardner

Sgt. Enriquez

Sgt. Hendrickson

Larry Nelson (CAO)

The following is the recommendation for the shooting:

W06-01**JUSTIFIED****Officer involved**

Officer Elson #0203

Presenter

Sgt. Hendrickson

Division Commander

Captain Somers

Summary:

On March 5, 2006, Officer Elson along with Officer G. Dahl and Officer S. Sood responded to [REDACTED] Rancho Pico Way (Volunteers of America Recovery Home) in regards to a subject who was smoking crack cocaine and running around the house armed with a knife. Officers arrived and found the subject barricaded in his second story bedroom armed with the knife. The three officers took up positions in the hallway outside the subject's room in order to contain him and to negotiate with him. The subject still armed with the knife suddenly charged out of his room towards the officers. Officer Dahl discharged his CED at the subject with no effect. As the subject continued to advance towards the officers, Officer Elson fearing for the safety of himself and of his partners fired four rounds. The subject was struck with all four rounds. He ran past the officers and downstairs into the kitchen. Officer Dahl followed the subject who was still armed and sprayed him with OC. The subject finally collapsed from the gunshot wounds and subsequently died at the hospital.

Recommendations:

None

*Recommendation
Approved.
H. West
4/28/06*

06-80882

OFFICE OF THE
DISTRICT ATTORNEY

SACRAMENTO COUNTY

JAN SCULLY
DISTRICT ATTORNEY

CYNTHIA G. BESEMER
CHIEF DEPUTY



December 18, 2006

Albert Najera, Chief of Police
Sacramento Police Department
5770 Freeport Boulevard, Suite 100
Sacramento, CA 95822

RE: Officer-Involved-Shooting: Case No. SPD 06-80882

Shooting Officer: Sacramento Police Officer Lee Elson, #213

Person Shot: Wayne Scantlebury

Dear Chief Najera:

The District Attorney's Office has completed its investigation of this officer-involved shooting. The issue addressed is whether or not the use of deadly force by Sacramento Police Officer Lee Elson against Mr. Wayne Scantlebury was lawful. This review does not address issues of civil liability, tactics, or departmental policies and procedures. For the reasons set forth below, we conclude that the use of deadly force in this case was lawful.

In reaching this conclusion, written reports and other documentary evidence were reviewed. This evidence included Sacramento Police Department reports, videotaped interviews of witnesses and officers, videos and photographs of the crime scene, 911 tape and log, radio logs, the Sacramento County Coroner's reports and photos, Sacramento County Crime Lab toxicology reports, and reports by Sacramento County District Attorney Investigators Sims, Sears, and Garverick.

Factual Summary

On Sunday, March 5, 2006 at 8:50 pm, a man named [REDACTED] called 911 to report that a member of his group home (Clean and Sober House) was smoking crack and running around

SPECIAL INVESTIGATIONS

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with a knife in hand. He identified the armed man as Wayne Scantlebury and the address as [REDACTED] Rancho Pico Way. One minute later SPD Communications dispatched officers and communicated over the radio that the call was a disturbance of the peace with a weapon, specifically that a man named Wayne was on crack, running around with a knife. Dispatch then updated that the other residents were very scared.

Uniformed patrol officers arrived on the scene at 8:57 pm. Officer Sood arrived first and Officer Dahl arrived a minute or two later. Officer Dahl strapped his taser onto his leg, and the two officers met with Mr. [REDACTED] (the 911 caller) in the driveway. He told them that a person named Wayne had been smoking crack cocaine, running down to light the pipe from the stove then running back up to his room, with a knife, and that he had done so repeatedly. The caller directed them to the room where the subject was. The officers noted that residents were downstairs in the living room as they walked up the stairs.

Officer Dahl drew his taser and Officer Sood drew his handgun as they headed up the inside stairway. Officer Sood walked down the upstairs hallway to the bedroom door, knocked, and peeked inside. When he opened the door the subject was seated on the bed with a knife in hand. The subject saw the officer, stood up abruptly, and bolted toward the door. Officer Sood yelled that the subject had a knife and then retreated backward down the hall where officer Dahl stood. The two officers stood at the top of the stairs. Officer Dahl stood at the corner at the top of the stairs and hallway; he was in a "pivot" position where he could retreat down the stairs, or forward, or hug the wall. The area was well lit. Officer Sood stood to the side of Officer Dahl, on the opposite side of the stairs. Officer Lee Elson arrived a minute later and positioned himself behind Officer Sood, behind the stairs.

Officer Dahl talked to the subject, trying to calm him, get him to drop the knife, and come out of the room. At one point the subject peeked out and closed the door. Officer Dahl repeatedly talked to the subject using his first name, Wayne. He informed the subject that they weren't worried about the crack pipe, just the knife, and repeatedly gave him instructions to slide the knife out the door on the ground. The only times the subject responded was when the officer asked "Wayne, can you hear me?" then Mr. Scantlebury grunted. The conversation lasted about 5 - 10 minutes. At 9:02 pm, without any progress Officer Sood aired over the radio that the subject had barricaded himself in his room armed with a knife.

At 9:07 pm the subject bolted out of his room holding a knife with the blade in an upright, raised position and ran directly at the officers. The distance between the bedroom door he left and where officers stood was approximately six feet. Officer Dahl fired the taser into Mr. Scantlebury's chest as soon as he saw the subject come out the door with knife in hand. Based upon the coroner's report, the wounds to Mr. Scantlebury's body, and the officers' description, it appeared that Mr. Scantlebury was crouched and bent forward as he ran toward officers. Officers heard the taser crackling which indicated it was charging and circulating. Almost simultaneously Officer Elson fired his handgun 4 times at the subject's chest. The subject went right by the officers downstairs. Officer Dahl followed him down the stairs to maintain the taser connection.

The subject did not show any signs of being affected by the taser voltage or the bullets. Officer Dahl dropped the taser, then drew his handgun on the subject, and told him to get on the ground. The subject looked around with an odd look on his face, blood on his shirt, still holding the knife. Officers repeated their order to get on the ground; he ignored them. Officer Dahl then sprayed him in the face with OC spray. The subject then took two steps, fell onto a handrail, then to the ground by the kitchen where he dropped the knife. Officer Sood came downstairs and kicked the knife away. At 9:08 pm. officers handcuffed the subject and called in the Fire Department. Mr. Scantlebury was transported to UC Davis Medical Center where he was treated and died at 10:31 pm.

Investigation of the scene revealed a steak knife with a 6-inch blade on the ground near where the subject had fallen. Blood and bullet casings were located in the master bedroom right behind where Officer Elson stood. Interviews with the officers, a check of the weapons, and evidence from the crime scene and body confirmed that Officer Elson fired his gun 4 times, all of which hit Mr. Scantlebury.

After Scantlebury was transported to the hospital, officers spoke with the people who lived in the home. The three officers were interviewed by Detectives down at headquarters.

Residents who saw the subject smoking the crack cocaine said he was sweating profusely, carrying the knife as he repeatedly ran back and forth up and down the stairs. They described him lighting his pipe at the gas stove and smoking, then running upstairs with the knife, then coming back down with the knife shortly thereafter, and repeating the behavior. They said he had a look on his face like he was “looking right through you” – “not in a right state of mind.”

The Coroner’s autopsy found a penetrating gunshot wound to the front of the right chest with a downward trajectory striking the liver and intestines. Another bullet entered the left side of the abdomen and traveled downward, striking the kidneys and severing the iliac artery; this was a fatal wound. Two bullets also struck the left thigh. The cause of death was reported as gunshot wounds to the torso and left thigh. Sacramento County Crime lab toxicology reports indicate that at the time of his death Mr. Scantlebury had a blood toxicology level of .36mg/L of cocaine, and 1.6mg/L cocaine metabolite.

Legal Analysis

A peace officer is entitled to use deadly force in self defense, in defense of others, or when the flight of a suspect poses a significant threat of great bodily injury. Penal Code Sections 196, 197, 835a. *Tennessee v. Garner* (1985) 471 US 1; *People v. Ceballos* (1974) 12 Cal.3d 470, 482-483; CALCRIM 507, 2670. When an officer fears imminent danger of serious bodily injury or death to himself or others, and the fear is both genuine and objectively reasonable, a sufficient basis exists for the use of deadly force. California Penal Code Section 197(3); *In re Christian S.* (1994) 7 Cal.4th 768.

The legal analysis begins with what the officers knew when they approached the home, and what they learned while there before the shooting. The Sacramento Police Department officers were

performing their duties as peace officers responding to a 911 call to preserve the peace. SPD dispatch specifically relayed to the officers what the 911 caller had said - that the subject was smoking crack cocaine and running up and down the stairs with a knife. Minutes later when the officers arrived on scene, they were updated by the 911 caller who spoke with them briefly and told them the situation hadn't changed. The officers' entry into the home was lawfully obtained through consent of a co-inhabitant of the residential living facility, the 911 caller.

When Officer Sood went upstairs and peeked in the room where he was directed to and where the subject was, he gained further information that the subject was uncooperative and was still in possession of the knife. When Officer Dahl's efforts in the hallway to calm and get cooperation from the subject to disarm were unsuccessful, the three officers acted prudently in remaining in the upper hallway and calling for backup. There were other residents downstairs and it was unknown to officers at that time whether other residents were upstairs in the adjacent bedrooms. (It was later determined that there was a resident upstairs in one of those bedrooms). The officers were engaged in a lawful duty of attempting to detain and disarm Mr. Scantlebury based upon the information from the 911 caller that various crimes were occurring (possession of crack cocaine, use of crack cocaine, and a possible threat with a deadly weapon).

The next step in the analysis involves whether the officers used reasonable force in the shooting of Mr. Scantlebury. With the subject in the room, ignoring officer directives and commands, the officers knew they were presented with a difficult situation. The subject was noncompliant, on drugs, and armed with a knife. The officers needed the subject to disarm (drop the knife) to protect the other individuals in the home and also for their own protection. Officer Dahl's drawing of his taser, Officer Sood's drawing of his handgun, and Officer Elson's drawing of his handgun were all reasonable, in light of the 6 foot distance they had to maintain between the subject's doorway and the stairs. The position they took enabled them to observe if the subject tried to get into the other rooms upstairs which were not cleared or downstairs where there were other residents.

When the subject bolted out of the room with a knife in hand running toward them, the situation that presented itself to all three officers was both dangerous and imminent. The officers subjectively believed their own lives and their fellow officer's lives were in danger in that split second. The officers' fear of their own lives and the lives of others around them was objectively reasonable. Any reasonable person could surmise that a person, known to be smoking crack, uncooperative, and running at them from six feet away with a steak knife in an upraised position could stab any of them within a second or two. From the moment the subject came into view in the hallway, the reasonable interpretation was that he posed a threat by committing the crimes of brandishing a deadly weapon and assault with a deadly weapon. Officer Dahl applied non-lethal force with his taser which was the only weapon he had drawn. Almost simultaneously Officer Elson fired his handgun four times while Officer Sood backed up, as Officer Dahl was in his crossfire. The taser and the bullets appeared to have no effect on the subject.

Officer Elson was reasonable in concluding that deadly force was necessary under these circumstances. The fact that Officer Sood did not fire his handgun does not make Officer Elson's use of his handgun unreasonable. The officers were within six feet of the subject, having

neither the room nor the time to retreat and avoid harm. In any case, they were not required to retreat. Penal Code section 835a states that any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested, nor shall the officer be deemed an aggressor or lose his right to self- defense.

Officer Elson was legally justified in defending himself and the other officers against Mr. Scantlebury, who was in the process of committing assault with a deadly weapon against him and the other two officers. An officer does not have to wait until his body or another's is struck with a weapon. Any person, including a peace officer, has the legal right to defend himself or others when placed in a situation like the one Officer Elson faced.

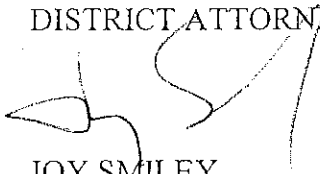
Conclusion

Applying the controlling law to the facts of record, we find that Officer Elson's use of deadly force against Mr. Scantlebury was reasonable under the law of self defense, defense of others, and use of force to effect arrest for a dangerous felony. We find the shooting to be lawful and will take no further action in this matter.

Thank you for referring the matter for our review.

Very truly yours,

JAN SCULLY
DISTRICT ATTORNEY



JOY SMILEY
Deputy District Attorney

cc: Officer Lee Elson, Sacramento Police Department
✓ Sgt. James Hendrickson
Don Casimere

City of
SACRAMENTO
Police Department

KATHERINE LESTER
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Report Number: 2006-80882

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Records or information, the disclosure of which would reveal personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information (Cal. Pen. Code § 832.7(b)(7));

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);

Records or information that constitute confidential medical, financial, or other information, the disclosure of which is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy (Cal. Pen. Code § 832.7(b)(6)(C)); and

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).

Sacramento Police Department
Professional Standards Unit
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