



OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SHASTA



Stephanie A. Bridgett
District Attorney

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May 23, 2019

Chief Roger Moore
Redding Police Department
777 Cypress Ave.
Redding, CA 96001

Re: July 23, 2018 Officer Involved Shooting
Redding Police Department case 18-52571
Shasta County Sheriff case 18-25675
Involved Officers: Corporal Will Williams, #324
Officer Nick Weaver, #119
Officer Bryan Cowan, #147
Involved Person: Masa Warden (DOB 8/2/85)

Chief Moore:

The Shasta County District Attorney's Office has completed an independent review of the above-referenced officer involved shooting incident. For purposes of this review, the district attorney's responsibility is to review the evidence and make a determination as to whether there is sufficient evidence to support the filing of criminal charges. Issues of policy, training, tactics, or civil liability were not considered. For the reasons set forth below, we conclude that the shooting was lawful.

Consistent with countywide officer involved shooting protocol, the lead agency in this investigation was the Shasta County Sheriff's Office with the assistance of the Shasta County District Attorney's Office, the California Highway Patrol, and the Redding Police Department. In conducting the investigation, sheriff's personnel and officers from allied agencies interviewed witnesses and collected physical evidence in an effort to gain a full and complete picture of the events that resulted in the shooting of Masa Warden. The findings of the district attorney are based upon a review of the totality of the materials compiled in the multi-agency investigation.

FACTUAL SUMMARY

Just prior to 6:00 am on July 23, 2018, Redding Police were dispatched to Shasta High School to respond to a reported assault on campus. When the officer arrived, he contacted

school district employee John Decker. Decker reported that he had been working in the school when he saw a male subject he did not recognize on the campus. Decker approached the male and asked if he could help him. The male then asked Decker who he was. Decker told the male that he worked at the location and asked the male who he was. At this point, the male began punching Decker in the head multiple times while threatening to kill him. After finishing his assault, the male subject left campus. The subject was described as an "agitated" black male adult wearing swim goggles on his head above his eyes. The male subject who assaulted Decker was later identified as Masa Warden.

Responding officers searched the area for Warden, but were unable to locate him. At around 8:26 am, a report was made of a residential burglary of an apartment on Overhill Drive. The location of this burglary is near Shasta High School. In this incident, the burglar entered an occupied apartment and took items. The investigating officer located swim goggles left behind in the apartment. These swim goggles did not belong to any of the apartment residents. Video surveillance of the burglar was also obtained which showed a black male adult on the property of the apartment complex immediately prior to the burglary.

Officers compared the video footage from Shasta High School and the video footage from the apartment complex. They appeared to depict the same person. While officers were searching the area for the person responsible for the burglary, RPD began to receive reports of a black male subject acting aggressively and irrationally in the area along the Sacramento River Trail. This male was described as challenging passersby to fight.

By this point, several Redding Police Officers were actively searching for the suspect. As a result of the police investigation to this point, it was believed that the same person was responsible for assault at Shasta High School, the residential burglary, and the threatening behavior on the river trail.

One of the officers involved in the search was Corporal Will Williams. At approximately 9:47 am, one of the searching police officers located a person matching the description of the person responsible for the morning's series of crimes in the area of Mary Street. The person was Masa Warden. The information was relayed over the radio to the searching officers.

At approximately 9:49 am, Corporal Williams located Warden in the 700 block of Mary Street near Freedom High School. Warden approached Corporal Williams on foot as the officer exited his patrol vehicle. Corporal Williams gave Warden commands. Warden did not comply with these commands. Warden was also making motions with his hand toward his waistband area. These motions made Corporal Williams believe that Warden was reaching for a weapon. Corporal Williams broadcast Warden's actions over the radio to advise other officers of the rapidly escalating situation. The officer continued to make multiple commands to Warden to show his hands. Warden did not comply with these commands. Instead, Warden continued to make movements with his hand toward his waistband area.

At this point, Corporal Williams fired a single shot from his duty weapon. The shot struck Warden and he fell to the ground. Corporal Williams immediately broadcast over the radio that he had shot Warden and requested medical assistance.

Within seconds of Corporal Williams firing the shot, Redding Police Officers Bryan Cowan and Nick Weaver arrived on scene in separate vehicles. Warden was on the ground. The officers, still concerned that Warden was armed, continued to give him commands to show his hands. Warden continued to disobey the officers' orders and continued to reach toward his waistband while on the ground. Officers Cowan and Weaver fired their weapons at Warden, striking him several times. Following this, the officers were able to successfully detain Warden. He received medical treatment on scene before being transported by ambulance to the hospital. Warden received several gunshot wounds to his lower body.

Following the shooting, investigators combed the area to locate eyewitnesses, video evidence, and any other physical evidence that would assist in the investigation.

A civilian witness observed the initial interaction between Corporal Williams and Warden from the vantage point of a driveway on Overhill Drive. He reported that he heard Corporal Williams command Warden loudly to take his hand from his pocket and put his hands to his side. These commands were repeated several times. The witness also heard Williams tell him he would shoot him during the commands. Despite these commands, the witness reported that Warden kept his hand in the waistband/pocket area of his pants. Shortly after this, the witness heard Corporal Williams fire a single shot.

Another civilian witness who was on a ride-along with Officer Cowan reported that he and Officer Cowan arrived on scene shortly after the radio broadcast of "shots fired" by Corporal Williams. When they arrived, Warden was lying on his stomach on the ground. The witness reported that the officers told Warden to keep his hands spread out and ordered him not to reach for anything. Despite these commands, Warden reached for his waistband with his left hand. At this point, Officers Cowan and Weaver fired their weapons.

Investigators were also able to obtain video footage of the incident from cameras at Freedom High School. The video is from a distance and contains obstructions, but captures Warden walking down Mary Street. It also showed a police unit pulling up and an officer (Corporal Williams) getting out of the police vehicle. While the officer stays near the door of his vehicle, Warden approaches him and it appears his hand is around his waistband area, Warden stops in the roadway for a brief time. While he is stopped, his hand is still in the area of his waistband. He moves back and forth, still with his hand in his waistband area. Finally, he begins to move forward. This is the point where the video appears to show Corporal Williams' shoot Warden.

The physical evidence at the crime scene was also identified and examined. Expended shell casings were recovered from the area near Corporal Williams' vehicle. All of these shell casings were consistent with the caliber of semiautomatic weapons used by the involved Redding police officers in their duty weapons.

Investigators were later able to determine that Warden was a wanted fugitive from the Las Vegas, Nevada area. At the time of the shooting, Warden was on probation for kidnapping and had an active warrant for his arrest for a probation violation.

As a result of the events of July 23, criminal charges were filed against Warden for his assault on Mr. Decker at Shasta High School, the residential burglary of the apartment, and resisting arrest by force or violence. He pled to the crimes of criminal threats, residential burglar, and resisting a police officer by force and was sentenced to 4 years in state prison in August of 2018.

LEGAL ANALYSIS

California law allows a peace officer to use reasonable force in order to detain or arrest a person, prevent the person's escape, or overcome the person's resistance if the force used is reasonable and if the officer has reasonable cause to believe that the person has committed a public offense or is a danger to others. (California Penal Code §835a, CALCRIM 2670.)

Under certain circumstances, reasonable force includes deadly force. Use of deadly force by a police officer is appropriate when the officer *honestly and reasonably* believes he or she is in danger of death or great bodily injury. (CALCRIM 505, 507, 3470.) A police officer has the same right of self-defense as any other person.

Whether force is reasonable is judged from the perspective of a reasonable officer on the scene. The concept of reasonableness should allow for the often split-second decisions that officers are forced to make in rapidly evolving situations. (*Graham v. Connor* (1989) 490 U.S. 386.)

In this case, Officers had been searching for a subject who had committed a violent unprovoked assault, burglarized a residence with a resident inside, and had been reported acting bizarrely by citizens on the river trail, all within a few hours' time. This information, which was known to the involved officers at the time of the shooting, placed them on notice that they were dealing with an unpredictable person who was willing to resort to violence. When Corporal Williams first encountered Warden, it was entirely reasonable for him to exercise caution by holding him at gunpoint and demanding that Warden show his hands. Warden, continuing his pattern of unpredictable behavior, ignored Corporal Williams' lawful commands. Instead of complying, Warden made repeated motions in the area of his waistband. The action of making motions in an area where weapons are commonly carried further elevated the dangerousness of the situation as perceived by Corporal Williams. Corporal Williams chose to fire at Warden to end the reasonably perceived threat that Warden posed to him and the public. Under all of the circumstances of this situation, Corporal Williams' actions were lawful.

Nor did the threat posed by Warden end once he was on the ground after being shot by Corporal Williams. At this point, Warden still posed a reasonable threat to the officers' and public's safety. He was conscious and continued to ignore commands, instead continuing to make motions toward his waistband. Despite the fact that he had been shot and was on the ground, it was nonetheless reasonable for the officers to believe Warden was still fully capable of inflicting serious harm on them and others. The choice made by Officers Cowan and Weaver to fire at him was not unreasonable under the circumstances.

CONCLUSION

Given the circumstances, the officers were justified in their actions. We find the shooting to be lawful and will take no further action in this matter.

Sincerely,



STEPHANIE A. BRIDGETT
DISTRICT ATTORNEY

cc: Tom Bosenko, Shasta County Sheriff
cc: Corporal Will Williams, Redding Police Department
cc: Officer Nicholas Weaver, Redding Police Department
cc: Officer Bryan Cowan, Redding Police Department