

HALL OF JUSTICE
330 WEST BROADWAY
SAN DIEGO, CA 92101
(619) 531-4040
SanDiegoDA.com

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

DAVID P. GREENBERG
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN
DISTRICT ATTORNEY

July 17, 2020

Chief of Police Michael Moulton
El Cajon Police Department
100 Civic Way
El Cajon, CA 92020

Re: Non-fatal shooting of Mr. Keith Crenshaw by El Cajon Police Officer Brandon Stanley on February 12, 2020; ECPD Case No. 20006834; DA Special Operations Case No. 20-023PS; Deputy District Attorney assigned: John B. Dunlap

Dear Chief Moulton,

We have reviewed the reports and other materials compiled by the El Cajon Police Department Crimes of Violence Unit concerning the shooting of Keith Crenshaw. District Attorney Investigators responded to the scene and were briefed by El Cajon Police Department detectives. This case was submitted to the District Attorney's Office for review on February 26, 2020. Additional materials were provided through May 21, 2020.

Summary

On February 12, 2020, a detective from the Phoenix Police Department contacted the El Cajon Police Dispatch Center and requested assistance locating a stolen vehicle, which had been reported stolen in Phoenix by the owner. The Phoenix detective told the dispatcher that a license plate reader indicated that the vehicle was in the area of 552 S. Johnson Avenue in El Cajon on February 12, 2020 at approximately 2:42am.

Later that morning at 8:42am, Officer Stanley and his partner, a trainee officer, volunteered to respond to the call regarding the stolen vehicle. The trainee officer and Stanley were both in uniform and Stanley drove their marked police vehicle to the area where the hit on the vehicle's license plate was recorded and observed the stolen car parked on the west curb line of the residential area at 544 S. Johnson Avenue facing southbound. The area is a residential area.

Officer Stanley parked his patrol vehicle directly in front of the reported stolen car. Officer Stanley and his partner were both in uniform and approached the stolen car. Keith Crenshaw appeared to be asleep in the driver's seat. There was no one else in the car.

A second El Cajon Police Department patrol vehicle arrived on scene and parked directly behind the stolen car. The responding officer in that vehicle, who was also in uniform approached. A Psychiatric Emergency Response Team (PERT) clinician was also with the second officer. The PERT clinician stood behind the patrol vehicle because the scene was not secured.

As Crenshaw appeared to wake up, Stanley drew his department issued firearm and directed Crenshaw to show his hands, put his hands up, and/or get his hands out of his shirt at least ten times. The other two officers on scene directed Crenshaw to put his hands up or get his hands out of his shirt at least five times. Crenshaw's hands were concealed under his clothing. Stanley identified himself as "police department" in the midst of giving commands to Crenshaw to put his hands up.

Crenshaw did not comply with the officer's orders, instead telling Stanley, "shoot me." Crenshaw put his right hand towards his waistband and made jolting and jerking movements towards Stanley through the open passenger door. Stanley fired two rounds from his service weapon, striking Crenshaw in the upper body and arm. Crenshaw remained conscious after he was shot, telling Officer Stanley to "kill me please." Stanley continued to give Crenshaw commands to get his hands out of his shirt. Crenshaw complied and was removed from the vehicle. Officers provided medical assistance to Crenshaw until paramedics arrived and Crenshaw was taken to the hospital. Crenshaw suffered a gunshot wound to the right side of his chest and a gunshot wound to the right bicep. A search of Crenshaw and his vehicle revealed that he possessed no weapons at the time of the incident.

After the shooting, Crenshaw explained that he was suicidal and wanted the officer to believe that he had a gun. Crenshaw told investigators, "I knew I was gonna commit suicide." Crenshaw also said, "I acted like I had a gun on me." Crenshaw went on to say, "I reached in my jacket, like I was about to shoot something," and "I told them to shoot me and he didn't shoot me."

Persons Involved

Keith Crenshaw is a 21-year-old resident of Phoenix Arizona. Brandon Stanley has been employed by the El Cajon Police Department for over 12 years as a police officer and is assigned to the patrol division.

Civilian Witnesses

The responding investigators canvassed the neighborhood and spoke to 19 civilians. Thirteen of the civilians heard gunshots but did not see the shooting. One civilian saw the events leading up to the shooting but did not hear the gunshots. Five civilians in the area did not see or hear anything.

Civilian Witness #1 (CW#1)

CW#1 lives in a residence across the street from the area where the stolen vehicle was parked during the incident. CW#1 said there was yelling coming from outside their home. CW#1 approached the front window to look outside and heard the sound of two gunshots. CW#1 saw two officers standing near a vehicle with their guns drawn. One was an officer by the front passenger side of the car and a second officer was near the rear passenger door. CW#1 could not see the person in the vehicle. CW#1 said the vehicle's windows were tinted.

CW#1 later looked out of the window and saw that officers had pulled a person out of the vehicle but could not see the person because there were so many officers around that person. CW#1 said when

they looked out of the window the second time there were many more officers present than when they looked out the first time.

Civilian Witness #2 (CW#2)

CW#2 lives in another residence across the street from the area where the stolen car was parked. CW#2 was home and heard the sound of two gunshots coming from outside. CW#2 looked outside and saw an officer pointing a gun at someone in a vehicle, however, CW#2 could not see the person in the vehicle. CW#2 also saw a second officer with a gun drawn towards the vehicle. CW#2 watched the officers pull the person in the car out of the vehicle and saw other officers arrive on scene.

Civilian Witness #3 (CW#3)

CW#3 was about to turn onto S. Johnson Avenue. CW#3 saw two officers near a vehicle and saw a shooting. CW#3 could not hear anything because CW#3 had their windows up and music on. CW#3 turned onto S. Johnson Avenue, made a U-turn, and waited to talk to police. CW#3 then recorded video using their cell phone. The video shows officers around a subject on the ground after the shooting. The sound of responding emergency sirens is audible from the cellphone video. CW#3 explained that they could not see well because CW#3 did not have their glasses on.

Civilian Witness #4 (CW#4)

CW#4 is a licensed PERT clinician who was assigned to work with LE#2 the day of this incident. LE#2 was the driver of the second patrol vehicle that arrived on scene and parked behind the stolen car. CW#4 said the call was not a known PERT related call but their patrol unit was in the area. CW#4 said that Stanley and LE#1 arrived at the location of the stolen car before them. Upon their arrival, LE#2 told CW#4 to get out of the patrol vehicle while LE#2 spoke with Stanley and LE#1.

CW#4 stood behind the right side of the patrol car as CW#4 was trained. CW#4 saw Stanley on the passenger side of the stolen car. CW#4 said that LE#2 was standing behind Stanley and LE#1 was on the driver's side of the stolen car. Stanley gave loud commands to the occupant of the reported stolen car, telling the occupant multiple times to put his hands where Stanley could see them. Stanley also told the occupant to take his hands out of his jacket. Stanley and LE#2 had their service weapons drawn. LE#1 did not have their service weapon drawn. Stanley had the front passenger door of the stolen car open and LE#2 opened the rear passenger door of the vehicle. CW#4 could not see the occupant inside the stolen car. The stolen car's windows were tinted.

CW#4 heard Stanley tell LE#1 to move from LE#1's position at the driver's door. LE#1 moved. CW#4 heard Stanley fire two rounds into the vehicle. CW#4 could not see inside the stolen car to tell where the rounds impacted. The officers then removed Crenshaw from the car and provided medical assistance to him. CW#4 said there was nothing CW#4 could do as a PERT clinician on this call because the scene was unsafe, the scene was not secure, and Crenshaw was not obeying verbal commands.

Law Enforcement Witness #1 (LE#1)

LE#1, who was partnered with Stanley, volunteered to handle a call to locate a stolen vehicle out of Arizona. LE#1 and Stanley saw the stolen vehicle parked at 544 S. Johnson Avenue. LE#1 parked down the street to observe the vehicle. Stanley got out of their patrol vehicle to walk over and see if the vehicle was occupied. LE#2 had arrived by this time and walked to the stolen vehicle with Stanley.

Stanley told LE#1 someone was sleeping in the vehicle. LE#1 drove their patrol vehicle in front of the stolen car to keep the car from driving away. LE#2 parked his patrol vehicle behind it.

LE#1 got out of the patrol vehicle and walked to the back of the stolen car to read the license plate on the car to the dispatcher to confirm the vehicle was the stolen car reported to El Cajon police. LE#1 went to the driver's door while Stanley was on the passenger side of the vehicle. LE#1 said the windows were rolled up. LE#1 saw Crenshaw seated in the driver's seat with a jacket covering him. LE#1 saw that there was no door handle on either door on the driver's side.

LE#1 knocked on the vehicle window as Stanley was telling Crenshaw to put his hands up. The front passenger side door of the stolen car was opened by Stanley. Stanley was near the front passenger side door of the vehicle and LE#2 was behind him. Stanley told LE#1 to get the "less lethal." LE#1 went to the back of LE#2's vehicle to retrieve the less lethal shotgun which had beanbag rounds. While at the back of LE#2's vehicle, LE#1 heard two shots fired. LE#1 immediately broadcast "shots fired" to dispatch. LE#1 did not see the shooting.

LE#1 walked back to Stanley and LE#2. LE#1 saw Stanley pull Crenshaw out of the car onto the sidewalk and begin providing medical assistance. Other police units arrived and began assisting Crenshaw with medical aid.

Law Enforcement Witness #2 (LE#2)

LE#2, who was partnered with the PERT clinician, CW#4, was assigned to a call regarding a reported stolen car. LE#2 heard LE#1 advise dispatch over radio that LE#1 and Stanley would also respond to the area to check for the vehicle. LE#2 arrived at the intersection of Chamberlain Avenue and South Johnson Avenue and saw Stanley and LE#1 already in the area in their patrol vehicle. While LE#1 was conducting a record check on the stolen car, LE#2 and Stanley approached the car to see if it was occupied. LE#2 saw Crenshaw, who appeared to be asleep, in the driver's seat of the vehicle. LE#2 told LE#1 to drive LE#1's patrol vehicle in front of the reported stolen car. LE#2 retrieved his patrol vehicle and drove behind the stolen car to prevent that vehicle from driving away or backing up.

LE#2 asked the PERT clinician, CW#4, to go to the rear of the vehicle out of safety concerns. LE#2 went to rear of the stolen car while Stanley was looking into the passenger side of the vehicle telling Crenshaw to put his hands up and show his hands. LE#2 also heard Stanley telling Crenshaw to stop moving in the vehicle. Meanwhile, LE#1 walked over to the driver's door of the vehicle. LE#2 opened the rear passenger side door of the stolen vehicle and told Crenshaw to show his hands. LE#2 said that Crenshaw was moving his hands under a jacket that he was covering himself. LE#2 drew his gun since Crenshaw was not showing his hands. LE#2 reached into the car to pull the jacket away. Crenshaw was holding onto the jacket and LE#2 was unable to pull the jacket off. LE#2 backed away and walked to the driver's side door and saw that there was no exterior handle on the driver's door. LE #2 was unable to open the driver's side door, so he walked back to the passenger's side rear corner of the vehicle.

The car windows of Crenshaw's vehicle were tinted and LE#2 was unable to see what Crenshaw was doing inside. LE#2 continued to hear Stanley telling Crenshaw to show his hands and then Stanley fired two shots. LE#2 saw Stanley pull Crenshaw out of the vehicle and the officers began rendering medical assistance to Crenshaw.

Officer Brandon Stanley's Statement

Stanley said he and his partner, LE#1, volunteered for a radio call to look for a vehicle that had been reported stolen out of Arizona. Stanley was acting as the field training officer for LE#1. Stanley was a stage four training officer, who trains new officers nearing the completion of their training period. When Stanley and LE#1 arrived in the area where a license plate reader showed a hit on the reported stolen car's license plate, Stanley saw the stolen car parked in the 500 block of South Johnson Avenue. LE#1, who was driving their marked patrol vehicle, parked around the corner on Chamberlain Avenue to observe the vehicle and determine if it was occupied.

Stanley got out of their patrol vehicle to watch the stolen car while LE#1 attempted to call the Phoenix Police Department detective for additional information on the vehicle and the circumstances of the reported theft. LE#2 arrived along with CW#4. LE#2 got out of his vehicle and approached the stolen car. Stanley joined LE#2 in walking towards the car. When Stanley got to the car, he saw that the windows on the vehicle were tinted. After initially not noticing anyone in the vehicle, Stanley was surprised when he saw Crenshaw in the driver's seat. The driver's seat was reclined. Crenshaw was covered with a jacket and appeared to be asleep. Stanley advised the dispatcher the car was occupied. Stanley noticed that the door handles to both doors on the driver's side of the reported stolen car were missing. When Stanley saw Crenshaw in the car, Stanley activated his body worn camera (BWC).

Upon request, LE#1 moved their patrol vehicle and parked it directly in front of the stolen vehicle. LE#2 ran back to his vehicle and drove it behind the stolen vehicle. Stanley said the patrol cars were moved to keep the stolen vehicle from fleeing. Stanley asked LE#1 to run the plate on Crenshaw's car through dispatch to confirm it was the same vehicle reported stolen. The dispatcher confirmed the plates matched the reported stolen car.

At almost the same time that dispatch was running the vehicle's license plate, Crenshaw appeared to wake up and was moving around in his seat slowly. Stanley drew his gun, pointed it at Crenshaw and told Crenshaw to take his hands from under his shirt so he could see them. Stanley said he used his firearm because based on previous experiences investigating auto thefts, suspects are sometimes armed. Stanley said it is common practice in law enforcement in conducting a felony stop to have a firearm out as a precaution.

Crenshaw put his hands up almost over his head covering himself with the jacket. LE#2 opened the rear passenger side door and began giving Crenshaw commands through the door. Stanley opened the front passenger door and told Crenshaw to put his hands up. Stanley reached in the car and pulled a sweatshirt that was near Crenshaw out of the way so he could see Crenshaw's hands. Stanley threw the sweatshirt on the sidewalk. Crenshaw kept his hands concealed so Stanley stood up and kept repeating commands for Crenshaw to show his hands. The jacket was still covering Crenshaw.

Stanley kept telling Crenshaw to show his hands. Crenshaw said to Stanley, "shoot me." Stanley told Crenshaw he was not going to shoot him. Stanley repeated commands for Crenshaw to put his hands where he could see them. Crenshaw was seated slightly leaning to his left away from Stanley and was covered with his jacket. Stanley could not see Crenshaw's left hand. Crenshaw reached toward his waist with his right hand while looking at Stanley. Crenshaw jolted towards Stanley as though he was

drawing a gun. Stanley was fearful that Crenshaw was about to pull a gun and shoot him, so he told LE#1 to get back since LE#1 was standing opposite of Stanley on the driver's side of the car.

Crenshaw did not fully pull his hands out of his waistband and did the drawing motion again from his waist and did a jerking motion like he was going to shoot Stanley. Stanley, fearing Crenshaw was about to draw a gun, fired his weapon. Stanley said he fired two times. Stanley said as all this was taking place, he realized he had nowhere to go for cover. Stanley said he did not wait for the less lethal shotgun before firing because he believed Crenshaw was about to draw a gun.

Stanley said he was thinking about the possibility that children could be walking to school because of the time of day. He also said that he had been yelling at Crenshaw and did not know if someone may have walked up behind him. Stanley said that he felt that he needed to protect himself and the other officers so he did not feel that he could retreat to his vehicle. Stanley explained in his statement that he felt that if he retreated to his vehicle, he would not be able to see what Crenshaw was doing.

Stanley cited the policy of the El Cajon Police Department regarding the use of a less lethal shotgun. Stanley said they are trained to have one officer maintain a lethal option while another officer uses a less lethal option, and a third officer is to use hands to control the subject. Stanley said he believed Crenshaw was going to pull out a gun and fire at Stanley because of the jerking movements Crenshaw was making. "I envisioned a gun coming out and a flash coming to me and I did not want that. I knew that was going to happen if I didn't do something to stop it from happening." Stanley said he did not choose to use a less lethal method because he did not believe Crenshaw was pulling out anything other than a gun.

Stanley said he aimed for Crenshaw's upper body because that was his only option in the situation. After shots were fired, Stanley said that Crenshaw went from being non-compliant to "partially compliant" by showing his right hand, the hand that Stanley thought was going for a gun. Crenshaw leaned over the center console and put his hands out. Stanley reached in and grabbed Crenshaw pulling Crenshaw out of the car onto the ground. In pulling Crenshaw out of the car, Crenshaw's pants came down, and Stanley saw that Crenshaw did not have a gun in his waistband.

Stanley said he never had any contact with Crenshaw prior to this incident and did not know his name.

Keith Crenshaw's Statement

In his statement, Crenshaw said he had spent the previous day at the beach. Crenshaw said he had smoked marijuana the night before and that he had been sleeping in the car before the officers arrived. Toxicology findings were consistent with Crenshaw's statement. A blood sample taken from Crenshaw at the hospital indicated that Crenshaw tested positive for cannabinoids. Crenshaw said before he opened his eyes, he heard the officers so he acted like he was asleep. The police knocked on the car window and when they saw Crenshaw was awake, he believed they were ready to arrest him. Crenshaw confirmed the officers identified themselves as police officers and were in uniform. Crenshaw said he did not know the officers had their guns out until he opened his eyes.

At that point, Crenshaw said he decided this was his opportunity. Crenshaw said, "I knew I was gonna commit suicide." Crenshaw explained, "I acted like I had a gun on me." Crenshaw went on to say, "I

reached in my jacket, like I was about to shoot something,” and “I told them to shoot me and he didn’t shoot me.”

Crenshaw says he knew he was shot twice. The officers dragged Crenshaw out of his car, and Crenshaw said he knew he was going unconscious.

Crenshaw confirmed the officers told him to get out of the car more than once, saying, “they followed their protocol. They did good.” In his statement, Crenshaw went on to say that he has never done anything like that and does not know if the officer actually thought that he, Crenshaw, had a gun. “So I’m sure he had training to know that this kid doesn’t have a gun.”

Crenshaw said he had been contemplating suicide because of domestic problems in Arizona regarding the mother of his son. “It was just stressful at the time,” explained Crenshaw. However, Crenshaw said, “I’m not trying to play the victim or anything, but I, I went and made this decision myself.” In his statement, Crenshaw says he was planning on going to Walmart to buy a knife because Crenshaw said he “decided” to commit suicide before “I left to California.”

In discussing the stress in his life, Crenshaw said, “I don’t want to sit in jail, I’d rather just end my life.” Crenshaw also said the “only place I did have to sleep was a stolen car...” Crenshaw said he knew the officer who shot him was afraid at the time and wanted the officer to know he was sorry.

Crenshaw spontaneously told a detective at the hospital, “[T]ell your brother, the officer, I am sorry.”

Investigation

The crime scene was secured, photographed and investigated by the El Cajon Police Department Crimes of Violence Unit. All El Cajon Police Department reports, Phoenix Police Department reports, and audio-recorded interviews of witnesses, including Keith Crenshaw and Brandon Stanley were reviewed, along with medical reports and toxicology, as well as BWC footage and recorded cell phone video footage that briefly captured the scene after the incident.

The events leading up to and the incident itself were captured on several BWCs. Stanley’s BWC began recording when he and LE#1 were standing near the stolen vehicle. Stanley was standing at the front passenger side corner of the reported stolen vehicle and Crenshaw can be seen reclined in the driver’s seat. LE#1 is seen standing on the rear passenger side of the stolen vehicle as LE#2 is parking behind the stolen vehicle. LE#2 is seen getting out of his vehicle and walking to LE#1’s position.

Stanley is seen drawing his gun in the BWC and told Crenshaw to show his hands. Crenshaw was covering himself with a dark colored jacket and his hands were not visible. When Stanley asked to see his hands, Crenshaw slowly raised the jacket to cover his face while keeping his hands concealed under the jacket as he appeared to hold them above his face. While Crenshaw did this it revealed he was wearing a jacket over a white shirt. Stanley approached the front passenger door and opened it. Stanley’s BWC pointed toward the ground as he leaned over to reach into the vehicle.

LE#2 asked Crenshaw if he understood what he was saying, and Crenshaw said, “yes.” Stanley identified himself as “police department” in the midst of giving commands to Crenshaw to put his hands up. As this exchange was taking place Stanley reached into the vehicle and pulled an article of

clothing from Crenshaw and dropped it on the ground. Stanley kneeled and Crenshaw's lower body came into view including his right hand, which was resting in his lap. Stanley told Crenshaw to stay where he was at and leave his hands where they were. Crenshaw told Stanley, "shoot me," and Stanley responded, "no."

Stanley stood back up and began backing away from the vehicle slowly. Stanley's reflection can be seen in the rear passenger window, which showed him pointing his gun into the vehicle. As he was doing this Stanley told Crenshaw not to reach into his shirt and told LE#1, who was on the opposite side of the car, to move away. Stanley then stated out loud he needed a "less lethal" and continued telling Crenshaw not to reach into his shirt.

Crenshaw said something that is partially inaudible but ends with "...before I do it." Stanley fired two rounds from his gun and stepped forward bringing Crenshaw into view. Crenshaw can be seen still in the driver's seat with both of his hands holding his abdominal area. Stanley continued to tell Crenshaw to show his hands and Crenshaw leaned over into the front passenger seat extending both hands in front of himself. Crenshaw asked Stanley to, "kill me please." Stanley responded, telling Crenshaw, "[N]o, I do not want to kill you."

Stanley then reached in and grabbed Crenshaw's left hand and pulled Crenshaw from the vehicle onto the sidewalk and handcuffed him. Stanley and LE#2 began treating Crenshaw for the gunshot wounds to his body.

LE#1's BWC was activated as LE#1 was standing near rear passenger side corner of the reported stolen vehicle. LE#1 walked to the driver's door and attempted to open the door but was unable to open the door because the handle was missing. Stanley can be heard telling LE#1 to move. LE#1 walked back to the passenger side of the vehicle. Stanley can then be heard saying he needed "less lethal." LE#1 ran to LE#2's vehicle and opened the back compartment. As LE#1 was removing the less lethal shotgun, shots are heard. LE#1's BWC did not capture the shooting. LE#1 went back to assist Stanley and LE#2 with providing medical aid to Crenshaw.

LE#2's BWC starts when LE#2 was about to park his vehicle behind the stolen car. LE#2 got out of his vehicle and approached the right rear passenger door of Crenshaw's vehicle. Stanley can be seen standing at the front passenger side corner of the stolen car drawing his firearm and pointing the gun towards the vehicle. Stanley can be heard telling Crenshaw to show his hands. LE#2 opened the passenger side rear door of vehicle. When LE#2 opened the door Crenshaw can be seen reclined in the driver's seat with clothing covering his upper body up to his neck. Only Crenshaw's head is visible.

LE#2 told Crenshaw to get his hands out of his shirt and asked Crenshaw if he understood, to which Crenshaw replied, "yes." LE#2's drawn firearm is visible at times in the BWC footage. LE#2 backed away from the door and walked to the driver's side briefly before walking back to the passenger side rear corner of the vehicle. LE#2's BWC captures Stanley standing at the open front passenger door with his handgun pointed towards the vehicle. Stanley continued to tell Crenshaw not to reach into his shirt and asked for a "less lethal." As LE#2 began requesting additional officers to respond, Stanley can be seen firing two shots into the vehicle. LE#2 is heard reporting over the radio "shots fired." After further commands by Stanley for Crenshaw to show his hands, Stanley reached in the open front passenger door of the car and pulled Crenshaw out onto the sidewalk. LE#2 began to assist Stanley

provide medical aid to Crenshaw. Crenshaw was transported to the hospital. He has been released and continues to receive medical treatment.

The weapon used by Stanley was a department issued 40 caliber semi-automatic Glock pistol. Investigators recovered two cartridge casings, which is consistent with the number of rounds fired by Stanley. Stanley said he carried his gun loaded with a total of fifteen rounds. A post-shooting examination of Stanley's gun showed it had one round still in the chamber and twelve remaining in the magazine. This is consistent with the number of rounds fired by Stanley.

Both shots fired by Stanley struck Crenshaw. One bullet struck Crenshaw in the right side of his upper torso and became lodged near his groin area. The doctor declined to remove the bullet at the time Crenshaw was treated. The second bullet struck Crenshaw in the right left arm, traveled through the arm and exited it, becoming lodged in Crenshaw's clothing. During a search of Crenshaw after his arrest, the officers found that Crenshaw did not possess a firearm during the incident. A search of the stolen car was conducted and no weapons were found inside.

Legal Standards of Criminal Liability

The analysis of use of force and deadly force by peace officers in California has changed as a result of Legislative amendments to Penal Code section 835a, which became effective on January 1, 2020.

Penal Code section 835a(b) provides that "any peace officer who has reasonable cause to believe that a person they intend to arrest has committed a public offense, may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance."

Penal Code section 835a(c) sets forth the standard to evaluate a peace officer's use of deadly force. The law provides that "a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary, for either of the following reasons:

- (A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person." Penal Code section 835a(c)(1)(A).

"A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not poses an imminent threat of death or serious bodily injury to the peace officer or to another person." Penal Code section 835a(c)(2).

The statute provides definitions for "deadly force," "imminent" and the "totality of circumstances" in Penal Code section 835a(e)(1) – (3).

"“Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.” Penal Code section 835a(e)(1).

"A threat of death or serious bodily injury is “imminent” when based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present

ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person.” Penal Code section 835a(e)(2).

“An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” Penal Code section 835a(e)(2).

““Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” Penal Code section 835a(e)(3).

“In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques, if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(2).

“[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” Penal Code section 835a(4).

“A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or prevent escape or overcome resistance. For purposes of this section “retreat” does not mean tactical repositioning or other de-escalation tactics.” Penal Code section 835a(d).

Penal Code section 196 was also amended. The statute provides that homicide is justified when committed by peace officers and those acting by their command in their aid and assistance when the homicide results from a peace officer’s use of force that is in compliance with Section 835a.

Conclusion

Officer Stanley was in uniform and he identified himself to Crenshaw and ordered Crenshaw to show his hands and raise his hands multiple times. Crenshaw ignored those commands and concealed his hands. Crenshaw reached for his waistband with his right hand as if he had firearm and made a jolting motion towards Stanley like he was going to pull a gun out. These actions occurred as Crenshaw failed to show his hands and abide by the officers’ directions. Under these circumstances an objectively reasonable officer would have reason to fear Crenshaw was armed and about to fire at the officer.

Crenshaw continued to have his right hand in his waistband and made another jerking motion towards Stanley. When Crenshaw suddenly jerked his hand from his waist toward Stanley, Stanley believed Crenshaw was reaching to use a firearm, fired his gun two times striking Crenshaw in the upper body and arm. Once hit, Crenshaw showed both hands to Stanley and began complying with his orders to surrender and was arrested. During the encounter, Crenshaw urged Stanley to shoot him while keeping his hands concealed. In his statement, Crenshaw said his actions were intended to make Stanley

Chief of Police Michael Moulton
July 17, 2020
Page 11 of 11

believe that Crenshaw was armed in an attempt to get Stanley to shoot him. Even after he was shot, Crenshaw asked Stanley to kill him.

In reviewing the totality of the circumstances, the nature of the call, where Crenshaw was located in relation to the officers, Crenshaw's failure to abide by commands to show his hands, Crenshaw reaching for his waistband with right hand and jerking towards Stanley, viewing the situation in light of an objectively reasonable officer, Stanley would have reason to believe that there was an imminent threat of death or serious bodily harm, either to himself or others in the residential area, that needed to be instantly confronted.

While this analysis is based on the perspective of a reasonable officer in the same situation, without the benefit of hindsight, Crenshaw's statements regarding his own actions during the incident further show that Stanley's perceptions at the time of the situation were reasonable. Crenshaw's statement indicated that Crenshaw wanted the officers to believe that Crenshaw had a gun in his pocket, that Crenshaw wanted to be shot by the officers, and that Crenshaw had his hand concealed.

Crenshaw made statements immediately before and after the shooting indicating that he was suicidal. The statement before the shooting was "shoot me" and after the shooting was "kill me please." A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe that person does not pose an imminent threat of death or serious bodily injury to the police officer or to another person. However in this incident, Stanley believed that Crenshaw posed a threat to Stanley and to other people who could be behind him because there had been yelling and because of the time of day children could be going to school. Stanley's belief was reasonable considering Crenshaw's failure to show his hands despite officer commands and Crenshaw's movement towards his waistband while Crenshaw made sudden, quick movements towards Stanley as if Crenshaw had a firearm.

Under the totality of circumstances, Stanley was justified in his actions and bears no state criminal liability for his actions. A copy of this letter, along with the materials submitted for our review, will be retained for our files.

Sincerely,


SUMMER STEPHAN
District Attorney

SS:gm
cc: Captain Royal Bates