

DWAIN D. WOODLEY
ASSISTANT DISTRICT ATTORNEY


**OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO**
**SUMMER STEPHAN
DISTRICT ATTORNEY**

San Diego
330 West Broadway
San Diego, CA 92101
(619) 531-4040

<http://www.sdca.org>

May 20, 2024

Chief David Nisleit
San Diego Police Department
1401 Broadway
San Diego, CA 92101

Sheriff Kelly Martinez
San Diego Sheriff Department
9621 Ridgehaven Court
San Diego, CA 92123

Re: Officer-involved shooting of Justin Teague on August 11, 2023, by San Diego Police Officer Joseph Lee; San Diego Sheriff's Department Case No 23-133895; DA Special Operations Case No. 23-069PS; Deputy District Attorney assigned: D. Cal Logan

Dear Chief Nisleit and Sheriff Martinez,

We have reviewed the reports and other materials compiled by the San Diego Sheriff's Department's Homicide Unit and the San Diego Police Department's Patrol Division concerning the circumstances leading to the shooting of Justin Teague by San Diego Police Officer Joseph Lee on August 11, 2023. Two District Attorney Investigators also responded to the scene and were briefed on the incident. The investigative case file was submitted to the San Diego District Attorney's Office for review on December 5th, 2023.

Summary

On August 11, 2023, at approximately 3:12 a.m., Officer Lee and his field training officer (LE1) were dispatched to an apartment complex on Lebon Drive in the University Town Center area of San Diego. A 911 call had been placed by a security guard (CW1) at the complex who reported actively observing two subjects trying to burglarize vehicles in the apartment complex parking garage.

Lee, LE1, and another San Diego Police officer (LE2) arrived on scene. They observed two men in a vehicle matching the description given to dispatchers by CW1. The vehicle's tires screeched as it drove around inside the parking garage before coming to a sudden stop. Justin Teague, who LE1 believed was the driver, along with the unidentified passenger, exited the vehicle and fled on foot. Lee, LE1, and LE2 chased Teague through the parking structure. Lee and his partners verbally identified themselves as police officers and gave Teague several commands to stop. As Teague was running along the apartment complex pathway, Teague turned around and fired his

semi-automatic handgun four times at Lee and the other officers. Lee immediately responded by firing his duty handgun thirteen times at Teague, striking him four times. Teague fell to the ground and was taken into custody. Officers provided medical aid until paramedics arrived on scene. Teague was transported to Scripps Memorial Hospital in La Jolla where he underwent surgery.

The vehicle Teague had been driving was reported stolen approximately three weeks earlier. Two other vehicles parked nearby inside the garage had damage from tampering.

Teague was arrested and is being prosecuted in San Diego Superior Court case CD299681. He is facing ten felony charges in relation to his conduct on August 11, 2023. The charges include three counts of attempted murder of a peace officer per Penal Code sections 664/187(a), three counts of assault with a semi-automatic weapon on a peace officer per Penal Code section 245(d)(2), and one count of possession of a stolen vehicle per Vehicle Code section 10851(a), among other offenses. The case is scheduled for Preliminary Hearing on June 4, 2024.

Persons Involved

At the time of this incident, Teague was a 39-year-old resident of San Diego County. Lee had been employed as an officer with the San Diego Police Department for less than one year and was assigned to the Northern Patrol Division nightshift as a trainee riding with LE1, his field training officer. Lee had been in the field training program for approximately one month.

Statement of Law Enforcement Officer Joseph Lee

Lee was driving his patrol vehicle and his field training officer (LE1) was in the passenger seat when an in-progress priority radio call aired regarding two subjects tampering with a vehicle. The reporting party was a security guard (CW1) who reported the suspects were actively breaking into cars in the parking garage of the apartment complex.

Lee and LE1 responded and arrived on scene shortly after LE2. Once on scene, Lee recognized a vehicle, occupied by two males, as matching the vehicle described by CW1. The vehicle was looping around the parking garage. LE1 pointed out that their police vehicles were blocking the only exit from the parking garage. Lee exited his vehicle and saw the suspects get out of their vehicle and flee on foot. Lee observed both male suspects run up a stairway from the parking garage onto a pathway surrounding the complex. The first suspect (unknown identity) went up the stairway and turned left. The second suspect (Teague) went up the stairway and turned right onto the pathway. Lee followed Teague, running up the stairs and to the right along the pathway, because Teague was closer to Lee than the other suspect.

The pathway was dark with a minimal amount of ambient lighting. Lee reported that during the foot pursuit, he repeatedly identified himself as a San Diego Police officer multiple and commanded Teague to stop. Teague did not comply. Lee knew that people who tamper with and steal vehicles often arm themselves to facilitate an escape. With that in mind, Lee was looking for signs of a firearm during the chase. Because of these factors, Lee drew his service weapon and utilized the flashlight affixed to his service weapon during the foot pursuit.

During the foot pursuit along the pathway, Teague slowed and turned back toward Lee from a distance of about 40 feet. Lee was scared that Teague slowing down and turning was an indication of an impending "action" from Teague. Teague then fired one or two rounds at Lee. Lee saw a muzzle flash from Teague's firearm and believed he heard two rounds being fired. Lee continued running forward and fired his duty handgun. Lee feared for his life and knew the suspect going to the ground did not eliminate the threat and he was still in danger since the suspect had already shot at him. Lee stated that somebody who is willing to shoot a police officer isn't going to stop because they are lying down. He knew Teague had the capability and intent to kill Lee. As a result, Lee continued to engage and assess the situation.

Once he heard Teague groan and yell, Lee stopped firing and reassessed. Lee repositioned himself behind a portion of a stairwell and completed a tactical magazine change. Lee and the other officers on scene were unable to see Teague's gun's location. Lee believed he was still in danger of being shot and killed by Teague. Lee did not discharge his weapon again.

Additional officers caught up to Lee's position. The officers planned how to safely contact Teague. Officers approached Teague and placed him in handcuffs.

When Lee was asked shortly after the shooting how many times he fired, he estimated 15 to 18 times. Several hours later while giving a formal statement, Lee stated he could not recall the number times he fired.

Lee believed if he had not returned fire, Teague would have continued to try to kill Lee or the other officers on scene. While Lee was being shot at, he was in fear for his life. Lee believed deadly force was his only option and there was no opportunity to de-escalate the situation once Teague shot at him.

Statement of Law Enforcement Witness One (LE1)

LE1 was Lee's field training officer and had been employed with SDPD for four years. LE1 and Lee were in the same patrol vehicle prior to arriving on scene.

They responded to a radio call of two males breaking into a vehicle. Upon arrival, LE1 saw the suspect vehicle drive around the parking structure and then turn away from officers, possibly looking for another exit. Since they were blocking the exit with their patrol vehicles, LE1 believed the suspects were going to flee on foot. Both occupants fled the parking structure on foot and LE1 and Lee chased after the person later determined to be Teague. LE1 didn't know if Teague was the driver or passenger. LE1 ran behind Lee and the suspect. As they ran, LE1 shouted, "San Diego Police," and "Get on the ground." Then LE1 heard two loud "bangs" from a distance he believed came from the suspect, followed by "consecutive bangs" coming from Lee's gun. LE1 took cover, moved up to Lee's location, and unholstered his service weapon.

Statement of Law Enforcement Witness Two (LE2)

LE2 has been employed with SDPD for four years. He arrived on scene about the same time as Lee.

On scene, the reporting party security guard pointed out where the suspects were located. LE2 saw a truck drive around the parking structure and then stop as both occupants fled the parking structure on foot. All three officers chased after the person LE2 believed to be the driver, later identified as Teague. During the foot pursuit, the officers gave multiple commands for Teague to stop, but Teague did not comply. LE2 was running behind LE1, who was running behind Lee, when LE2 heard one or two gunshots from a distance. LE2 saw dirt kicked up near him when the shots were fired. LE2 then heard additional gunshots and saw Lee standing in a shooting platform stance. LE2 caught up to where Lee was standing and saw Teague on the ground about 20 yards ahead of them. Officers took Teague into custody and rendered aide to him until paramedics arrived.

Statement of Civilian Witness One (CW1)

CW1 is a security guard for the apartment complex where this incident occurred. She was on her break when she observed a truck drive into the apartment complex parking garage. The truck then went into two other parking garages within the same complex. The truck then came to a stop next to a motorcycle. Two males from the truck were standing next to the motorcycle. CW1 believed they were possibly trying to steal the motorcycle. CW1 called 911 and stayed on scene. Upon police arrival, she pointed out where the males were standing. The males then ran away and officers chased them. Soon after, CW1 heard approximately more than 10 gunshots. CW1 did not see the shooting.

Other Witnesses

Multiple residents from the apartment complex heard varying amounts of gunfire ranging from four to thirteen shots. The residents also heard police shouting commands for Teague to get on the ground, stop resisting, and to not reach for the gun. Some reported hearing someone saying he was injured and having difficulty breathing. No witnesses were located who saw the incident.

Investigation

The scene was secured, photographed, and investigated by the San Diego Sheriff Department's Homicide Unit. All detective reports, crime scene investigator reports, audio recorded witness interviews, body worn camera footage, crime scene scans, and audio recordings were reviewed. All of these items were found to provide evidence corroborating the officers' statements.

At the time of the incident, Lee was armed with his 9mm duty Glock 17 Gen 5 semi-automatic handgun. Lee stated that prior to the shooting incident, each of his magazines were fully loaded with seventeen rounds and one additional round in the pistol chamber. During the shooting incident, Lee fired multiple rounds before conducting a tactical reload with a fully loaded magazine. After the shooting, Lee's handgun was collected by the sergeant on scene and later examined by an SDSO criminalist from the firearms unit. The handgun was loaded with one round in the chamber and contained a magazine of seventeen cartridges. The designated capacity for the handgun magazine is seventeen rounds. Lee also had in his possession the original magazine that was in his handgun when he fired during the incident. This magazine was also collected and later examined by an SDSO criminalist. It was found to contain four rounds during the criminalist's examination. The evidence supports a conclusion that Lee fired thirteen rounds from his duty weapon.

At the time of the incident, Teague was armed with a loaded stolen .40 caliber Smith and Wesson semi-automatic handgun. The handgun was collected by SDSO detectives next to where Teague had fallen to the ground. Teague was also found to be in possession of an approximately 3" folding-blade knife. Detectives located four .40 caliber cartridge casings in the area. Along the walkway where the shooting occurred, SDSO detectives also located a fired bullet cartridge and two separate metal fragments. When the handgun Teague had fired was recovered, it was jammed with one bullet lodged in the chamber and contained a magazine without any rounds left inside. The handgun was later examined by an SDSO criminalist from the firearms unit. It was tested and deemed capable of discharging properly. Based on the number of .40 caliber casings found, it is believed Teague fired four rounds. The handgun was determined to have been stolen in Lemon Grove, California in August of 2021.

Scene measurements based on statements show Lee and Teague were approximately 10-20 yards apart when the shooting occurred.

Teague was taken into custody and then transported to the hospital, where he received medical treatment for the four gunshot wounds suffered during the incident.

The vehicle Teague had been in was reported stolen approximately three weeks prior. Two other vehicles parked nearby in the parking garage had damage from apparent tampering. Burglary tools and various other items of value were located with the stolen vehicle.

Video Surveillance

There was no video surveillance footage that captured the incident. Cell phone video taken by CW1 was obtained and supported the statements of the various witnesses.

Body Worn Camera

Lee's department-issued body worn camera was activated during the shooting incident and captured the events that transpired. The footage shows Lee arrive and park just outside the apartment complex garage. Tires are heard screeching inside of the parking structure. Teague is seen fleeing on foot from the stopped stolen truck as Lee, LE1, and LE2 give chase up a small staircase out onto an outdoor paved walkway through the complex. While running behind Teague, Lee twice orders Teague to get on the ground. Teague continues running, turns back toward Lee while still running, and fires multiple rounds at Lee. Lee then fires multiple rounds in return toward Teague, causing Teague to fall to the ground. Lee and other officers maintain their weapons trained on Teague while communicating with Teague and giving him multiple commands. Once they deem it safe, multiple officers approach Teague and handcuff him. After Lee identifies himself as the shooting officer, he removes himself from the scene while other officers tend to Teague.

LE1 and LE2 also had their body worn cameras activated during the entire incident from arrival on scene until after Teague was taken into custody. The times and images are consistent with the body worn camera footage from Lee. In addition, the footage from LE1 and LE2's cameras

captured the multiple commands LE1 and LE2 gave Teague inside of the parking garage at the beginning of the pursuit as well as LE1 identifying them as San Diego Police officers. During the foot pursuit, LE1 and LE2 are running behind Lee and, as a result, Teague's actions when he fires at Lee cannot be seen from their vantage points. The sound of Teague's shots and then Lee's return fire of multiple rounds is heard. Due to the speed at which the shots were fired and the echo in the apartment complex pathway, it is difficult to count the exact number of audible shots based on the body worn camera footage alone.

Additional officers who arrived after the shooting were wearing body worn cameras that captured their perspective. The footage of some of these officers' cameras shows Teague lying on the ground next to the handgun. The footage also showed Teague being taken into custody, officers rendering aide, and Teague being carried to an ambulance.

Injuries

Detectives reported that Teague sustained seven gunshot wounds to the following areas: left upper arm, right forearm just below the elbow, right forearm just proximal to the wrist, abdomen, and three to the right flank at the level of the nipple. According to medical records, Teague sustained four gunshot wounds: one to the chest, one to the forearm, one to the upper left arm, and one to the abdomen. There were also additional bullet exit wounds on Teague's body. Teague underwent surgery to remove bullet fragments. Teague survived the shooting and is still in the Sheriff's custody in San Diego in relation to the criminal prosecution he faces.

None of the other officers on scene sustained any injuries as a result of this incident.

Toxicology

A toxicology analysis of Teague's urine was performed by the hospital laboratory, and the following substances were found present: methamphetamine, amphetamine, and fentanyl.

Legal Standard

The analysis of use of force and deadly force by peace officers in California is set forth in Penal Code section 835a. Penal Code section 835a(b) provides, "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, "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:

- (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).

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(a)(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, and that the totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” Penal Code section 835a(a)(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).

Conclusion

Lee, LE1, and LE2 responded to a radio call of a crime in progress inside a parking garage connected to apartment homes. Upon arrival, officers saw a truck matching the description given by the reporting party. That truck was later determined to be stolen. The truck came to a sudden stop and both occupants fled on foot. Teague was one of the fleeing suspects.

Officers identified themselves and gave Teague commands to stop, which he ignored. The three officers chased Teague out of the garage and through a pathway along the apartment complex. After an approximately forty-second foot pursuit, Teague turned and fired four rounds at Lee, who then returned fire, shooting thirteen times and striking Teague four times. Teague fell to the ground next to the handgun he had fired.

Chief David Nisleit
Sheriff Kelly Martinez
Page 8 of 8

Officers formed a plan to approach Teague and safely made contact with him. They took Teague into custody and rendered lifesaving first aid measures until paramedics arrived to transport him to the hospital for surgery. Teague survived his injuries and is currently in the Sheriff's custody facing multiple felony counts including three counts of attempted murder of a peace officer.

Teague initiated sudden and lethal force against the officers when he fired multiple rounds at them while fleeing from them. The officers were conspicuously identifiable, uniformed officers and had given Teague multiple commands. Teague ignored those commands. When Teague fired at Lee, Lee reasonably feared for his life. Lee's decision to respond with deadly force was reasonable given the imminent threat of death or serious bodily injury posed by Teague. As a result, Lee bears no state criminal liability for his actions. A copy of this letter along with the materials submitted for our review will be retained in our files.

Sincerely,


SUMMER STEPHAN
District Attorney

cc: Captain Richard Freedman
San Diego Police Department
Captain James Emig, Jr.
San Diego Sheriff's Department