



POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103

FRED H. LAU
CHIEF OF POLICE

January 7, 2002

Honorable Police Commissioners
San Francisco Police Commission
850 Bryant Street, Room #505
San Francisco, CA 94103

Re: Firearms Discharge; OIS-MCD Case #012-98

Dear Commissioners:

This letter summarizes the investigative report of the above referenced Firearms Discharge. This summary is directed to the Commission pursuant to Section II. F. 1, of Department General Order 8.11.

After a thorough review of the incident, the Homicide Detail investigation, the Management Control Division investigative report, and upon having received a letter of clearance from the Office of the District Attorney, the incident is summarized as follows:

On October 6, 1998, at 2330 hours, while on uniformed patrol in the Southern Police District in a marked department patrol wagon, two patrol officers observed a male and female involved in a physical altercation on the sidewalk near the passenger side of a Mercedes Benz which was parked curbside, mid-block on the West side of the 200 block of 6th Street. The vehicle was facing Southbound, and was situated between Howard and Tehama Streets. The officers believed they were witnessing a crime in progress, and parked their patrol wagon diagonally in front of the parked vehicle, which would block its forward movement. The officers then got out of the wagon, and approached the male and female on foot.

Utilizing standard police practice, the officers separated the male and female in order to ascertain the nature of the conflict. One officer, Officer One, took the male, to rear of the Mercedes, on the street side of the vehicle, the other officer, Officer Two, interviewed the female at the front of the vehicle, with both officers attempting to maintain eye contact with each other.

During this preliminary investigation, Officer One asked the male for his identification. The man, without making any comment to the officer, walked to

Re: Firearms Discharge: OIS-MCD Case #012-98

the driver's door of the vehicle, opened it, and got into the driver's seat. The officer immediately went to the passenger side of the vehicle, opened the passenger door, and observed that the man had his hand positioned on the ignition key. Officer One ordered the male suspect not to start the auto. The suspect ignored this command, and started the vehicle.

The man revved the vehicle's engine, as he rapidly backed the vehicle Northbound on 6th Street, away from the patrol wagon. The officer attempted to flee from the vehicle, as he had his body leaning into passenger side of the vehicle, and the car door was open. The open passenger door struck the officer on his back, and pushed him in the same direction of the accelerating vehicle. Officer One described feeling as though he was being pulled under the vehicle, and into its tires.

As the force of the door propelled the officer down the curb line, the officer's chest was pinned against a parking meter, as the vehicle's door continued to push against his back. The force was so violent that the impact bent the 2" metal post supporting the meter 5 degrees off center, and, bent the passenger door of the vehicle past its normal stopping point, buckling the door by the hinges.

After the bent door progressed past him, Officer One was released from the parking meter and fell to the street. *"I was trying to get my breath back, I knew my wrist hurt a lot and I had pains around my upper body and legs. I was scared to death."*

As Officer Two left the woman and ran toward his partner, the suspect continued to back his vehicle up 6th Street, stopping curbside just short of Howard Street. At this point the suspect had the options of fleeing East or West on Howard Street, or, North on 6th Street. The suspect did not select any of these avenues of escape. Instead, he drove his vehicle Southbound on 6th Street, directly at the injured Officer One.

Officer One related that he did not expect the vehicle to return to his location. As he rose from the street, he noticed the vehicle returning to his location. When by his estimation the vehicle was approximately ten feet away, *"I drew my gun because I believed I was going to be run over for the second time. I targeted the driver and shot. I wanted to stop the threat. I fired my weapon to save my life."*

Officer Two said that he saw Officer One draw his weapon and yell verbal commands while pointing his weapon at the vehicle. He could tell his partner was hurt because he was staggering. Officer Two, it did not appear as though the

Re: Firearms Discharge: OIS-MCD Case #012-98

driver was attempting to drive around his partner, but instead was driving right at him. Both officers fired single shots simultaneously at the windshield of the vehicle as it proceeded at Officer One. The vehicle then changed course, and proceeded in the path of Officer Two.

Officer Two stated that he heard the vehicle's engine accelerate and noticed that it was still coming toward him. He said that he fired his weapon continuously while simultaneously backing away in an effort to get out of the oncoming vehicle's path. As he sidestepped the passing vehicle, the second officer continued to fire, stopping when he felt he was no longer in danger.

The vehicle crashed into the wall of a building and the tires began to spin. Officer Two was not certain if the tires were spinning in the direction of original travel, or, if the suspect was attempting to back up. *"I wasn't sure if the car was reversing or the car was going forward. So, because I didn't know if the threat was over, I raised my gun back up to the car and realized that my slide was locked back. I realized that I didn't have any ammunition. I dropped the magazine that was in the pistol. I took a new magazine and put it into the pistol and put the gun back into battery, and that's when I was giving my verbal commands and I begin to approach the vehicle to find out (the driver) was slumped over the wheel."*

The female witness related: *"His partner is asking him to stop. He shouts Halt! Halt! Halt! Stop the car! I think the driver panicked. He put it in drive. He kind of pushed it at the officer. As if, 'If you don't get out of my way Mother-fucker, I am going to run you over too!'"*

Subsequent investigation revealed that the suspect had been a regular visitor to the Tenderloin and South of Market area for the purpose of purchasing crack cocaine. He normally purchased from a self-admitted drug dealer. This subject related that he sold to the suspect on the average of three times a week, with the suspect sometimes making up to three purchases in a single night. This drug dealer related that on October 6, 1998, he sold the suspect seven "10 shots", or, seventy dollars worth of crack cocaine.

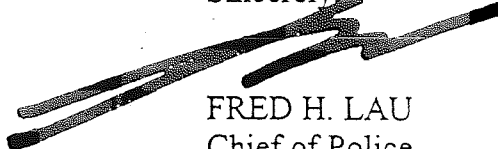
This investigation did not reveal any violations of present department policy. However, recognizing that many of our officer involved shootings center around vehicle stops, pursuit terminations, and felony arrests involving vehicles, I have initiated a review of this pattern of firearms use. I directed the Commanding Officer of the Training Division to convene a panel of in-house experts to review present department policy, present training curricula, O.C.C. recommendations,

Re: Firearms Discharge; OIS-MCD Case #012-98

and statewide training practices to determine what, if any, changes should be made in our present policy in this area.

Further, pursuant to Section II. F. 2 of Department General Order 8.11, a copy of this investigation and review of the incident has been forwarded to the Office of Citizen Complaints.

Sincerely

A large, dark, irregular scribble that completely obscures the handwritten signature of Fred H. Lau.

FRED H. LAU
Chief of Police

Enclosures

Copy: Management Control Division
Office of Citizen Complaints

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