13thJuror.Com

CopLaw Update

March 15, 2017

If you forget what you were trained, the jury will remember it for you!™

Report of the State's Attorney for the Judicial District of Stamford/Norwalk Concerning the Death of Hua Jian Ye on October 24, 2014, in the City of Norwalk
Source: http://www.ct.gov/csao/cwp/view.asp?a=1802&q=573120

LAW REGARDING THE USE OF DEADLY FORCE

Section 53a-22(c) of the Connecticut General Statutes permits a police officer to use deadly physical force upon another person when he reasonably believes such to be necessary to defend himself or a third person from the use or imminent use of deadly physical force. The test to determine reasonableness is both subjective and objective. First, the officer must believe that the use of deadly force is necessary to defend himself or another from the imminent use of deadly physical force. Second, the belief must be objectively reasonable. *State v. Smith* , 73 Conn. App. 173, cert. denied, 262 Conn. 923 (2002). The burden is on the state to disprove beyond a reasonable doubt the elements of self-defense as set forth in section 53a-22. *State v. Smith* , supra, 73 Conn. App. at 185-86.

The test is not whether it was in fact necessary for the officer to use deadly physical force in order to defend against the imminent use of deadly physical force. The test is whether the officer believed it was necessary to use deadly physical force and whether such belief was objectively reasonable, based on the facts and circumstances known to the police officer at the time the decision to use deadly force was made. See *State v. Silveira* , 198 Conn. 454 (1986), *State v. Adams*, 52 Conn. App. 643 (1999).

The United States Supreme Court has explained this test in a civil rights case: "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on scene rather than with the 20/20 vision of hindsight …The calculus of

Editor:

Reginald F. Allard, Jr.

CV

13thjuror Law Disc

Links

13thjuror.com

reasonableness must embody allowance of the fact that police officers are often forced to make split-second decisions - in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* , 490 U.S. 386 at 387 (1989). "The appropriate inquiry is whether the officers acted reasonably, not whether they had less intrusive alternatives available to them." *Scott v. Henrich* , 39 F.3d. 912, 915 (9th Cir. 1992).

In examining the number of shots necessary to end the public safety risk, the United States Supreme Court has explained: "It stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended." *Plumhoff v. Rickard* , 134 S.Ct. 2012 at 2022 (2014).

Editor's Comment: ***The reader is encouraged to provide this information to their agency's Legal Advisor for clarification and understanding as it relates to their respective Constitutional and Statutory law as further filtered through their respective agency Use of Force Policy.***

DISCLAIMER: This message is not intended to be legal advice, and it should not be construed to be legal advice. Any specific fact patterns as they relate to State laws and/or Regulations should be directed to an appropriate attorney for legal clarification and opinion. This mesage is not intended as the giving or tendering to another person for consideration, direct or indirect, of any advice or counsel pertaining to a law question or a court action or judicial proceeding brought or about to be brought; or the undertaking or acting as a representative or on behalf of another person to commence, settle, compromise, adjust, or dispose of any civil or criminal case or cause of action.

E-mail: 13thjuror@cox.net
Phone: 860-621-1013
Web: http://www.expertcop.com