

**Non-Fatal Officer Involved Shooting of Robert Ball
Los Angeles County Sheriff's Department**

Deputy Zachary Marshall, #518791

J.S.I.D. File #19-0269



Justice System Integrity Division

November 23, 2020

MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-Fatal Officer Involved Shooting of Robert Ball
J.S.I.D. File #19-0269
L.A.S.D. File #019-08458-2660-152

DATE: November 23, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 14, 2019, non-fatal shooting of Robert Ball by Los Angeles County Sheriff's Department (LASD) Deputy Zachary Marshall. It is our conclusion that Deputy Marshall acted in lawful self-defense and defense of another.

The District Attorney's Command Center was notified of the shooting on June 14, 2019, at 9:34 p.m. The District Attorney Response Team responded and was given a briefing of the shooting. A walk-through of the scene was not conducted due to the remoteness of the shooting location.

The following analysis is based on police and investigative reports, audio recorded interviews, photographic evidence and radio traffic recordings submitted to this office by Detectives David Gunner and Alfred Jaime, LASD, Homicide Bureau. Marshall provided a voluntary statement which was considered as part of this analysis.

FACTUAL ANALYSIS

On June 14, 2019, shortly before 7:00 p.m., Sergeant Jason Trevillyan and Deputy Zachary Marshall were on patrol in a marked black and white police vehicle, working a summer crime suppression team. Marshall was driving north on Longview Road in the City of Pearblossom when they passed Robert Ball walking northbound on the dirt shoulder. Trevillyan and Marshall recognized Ball from a prior arrest and knew he was a named suspect in a recent stolen vehicle case.¹

¹ Trevillyan and Marshall arrested Ball for driving a stolen vehicle, possession of methamphetamine and under the influence of a controlled substance on May 16, 2019. On June 6, 2019, Ball fled from a deputy in a stolen vehicle during a traffic stop. The subsequent vehicle pursuit was terminated for safety reasons.



Diagram of the scene

Marshall made a U-turn and stopped the marked police vehicle to the front of Ball.² Marshall exited the driver's door and told Ball, "Come over here. I need to talk to you." Ball replied, "What do you need to talk to me for?" During this time, Trevillyan walked around the rear of the police vehicle to the driver's side. Marshall ordered Ball to place his hands on the patrol car. Ball ignored Marshall and fled on foot eastbound through the open desert between Avenue V-9 and Avenue V-10.

² Marshall first contacted Ball at "1" on the scene diagram.



Looking east into the desert where Ball fled from the deputies between Avenue V-9 and Avenue V-10.

Marshall ordered Ball to stop and observed Ball remove a black semiautomatic firearm from the cargo pocket of his shorts. Meanwhile, Trevillyan had entered the police car and drove north to Avenue V-9 and paralleled Ball eastbound. Marshall attempted to broadcast his observations to Trevillyan, but his radio malfunctioned. Marshall raised his duty weapon into the air with the mounted flashlight activated and pointed toward it in an attempt to signal to Trevillyan that Ball was armed. Marshall chased after Ball, who was now 30 to 40 yards ahead of him. Marshall ordered Ball to stop and drop the gun multiple times.

Ball veered to the north toward Avenue V-9 as Trevillyan passed Ball's position to the east in an attempt to cut off his progress. Trevillyan stopped the police vehicle, exited, unholstered his service weapon and ordered Ball to stop.³ Ball turned south and ran toward Avenue V-10. Trevillyan pursued Ball on foot.

Ball approached a chain-link fence that surrounded a vacant desert lot on the south side of Avenue V-10. Ball jumped over the fence and fell to the ground.⁴ At that time, Trevillyan observed a firearm in Ball's right hand. Trevillyan pointed his service weapon at Ball and yelled, "Don't move! Don't get up! Stop where you are!" Ball ignored the orders, got to his feet and continued running south through the lot. Trevillyan broadcast over the radio they were chasing an armed suspect.

³ Trevillyan stopped his patrol vehicle at location "2" on the scene diagram.

⁴ Ball jumped the chain link fence at location "3" on the scene diagram.



Location where Ball jumped over the chain-link fence on the south side of Avenue V-10.

Marshall jumped over the chain-link fence 30 to 40 yards west of Ball. Marshall pursued Ball in a southeasterly direction as Ball ran along the eastern fence line. Trevillyan paralleled Ball on a dirt road that ran along the outside of the fence. At this time, the deputies noticed that Ball was holding the gun by the slide.⁵ Marshall ordered Ball to stop running and drop the gun. Ball continued to flee and repeatedly looked over his shoulder toward the deputies.

⁵ Marshall stated that when Ball first removed the gun from his pocket, he held it by the grip.



Looking south into the fenced-in desert lot with the chain-link fence to the left of the photograph.

Ball appeared to be tiring and began to slow. During this time, Marshall observed Ball rotate his hold on the gun from the slide to the grip. Ball then turned his entire body toward Marshall. Marshall believed he and Ball were about to engage in a shootout. However, Ball never pointed the gun at Marshall and immediately turned back and continued running. Ball then looked toward Trevillyan. It appeared to Marshall that Ball was trying to decide which deputy to shoot first.

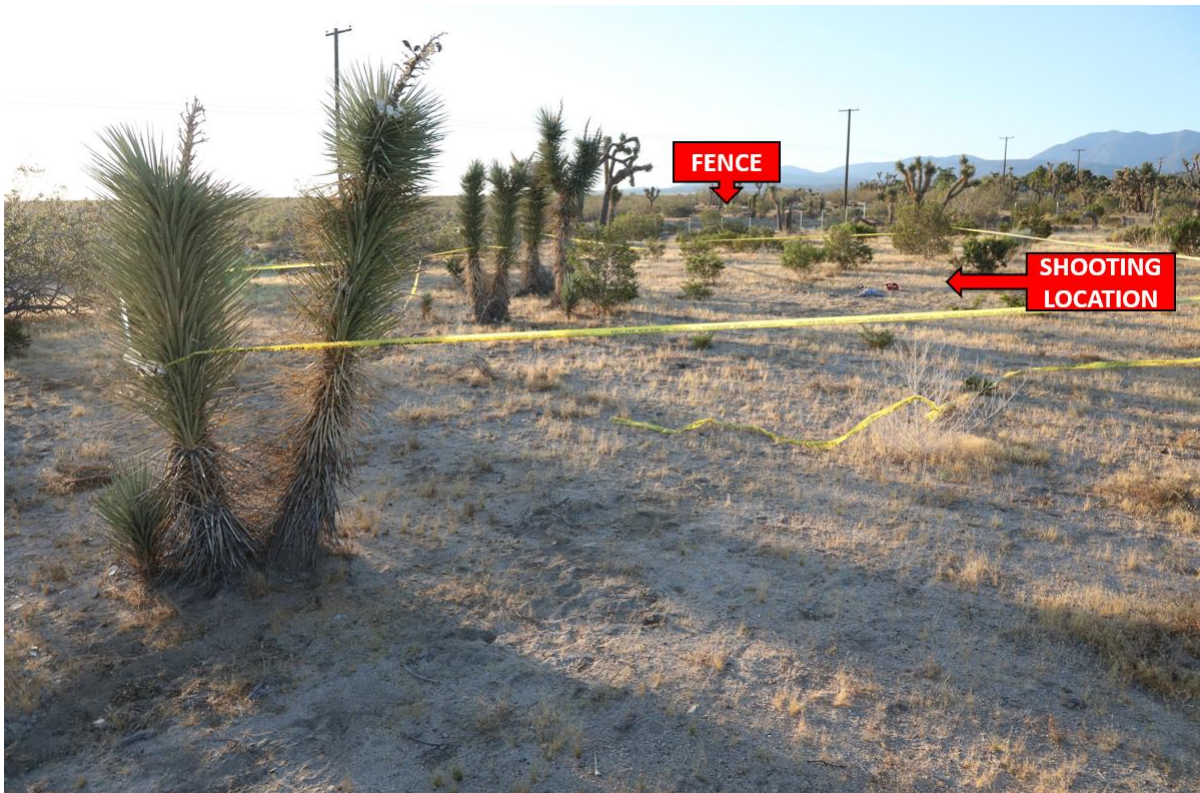
Ball stopped and faced Marshall a second time, and again quickly turned back to the south. Ball then extended the gun from his body and turned it toward Trevillyan. Fearing that Ball was going to shoot Trevillyan, then turn the gun on Marshall, Marshall fired one round from his service weapon, striking Ball. Ball fell to the ground and the firearm landed approximately six inches from his right hand.⁶

Trevillyan observed Ball slow as he headed in the direction of the southern fence line. Ball continued to look back toward Marshall, who was farther away from Ball than Trevillyan. Ball appeared too fatigued to make it over the fence and Trevillyan feared that Ball would turn toward him and Marshall with the firearm. Ball veered to the west and Trevillyan's view became partially obscured by trees and brush. At that time, Trevillyan heard one gunshot, but did not see who fired. Trevillyan yelled to Marshall and asked Marshall if he had fired. Marshall confirmed that he did. Trevillyan continued south and observed Ball fall to the ground. Trevillyan jumped the fence and stepped on the gun to prevent Ball from regaining possession of it.

⁶ Ball was at location "4" on the scene diagram when he was struck by gunfire.



Looking west into the desert lot from the dirt road where Trevillyan paralleled Ball.



Ball's location at the time of the shooting. The camera is facing southeast.



Ball's weapon recovered at the scene.

Marshall began to render aid to Ball. Ball asked Marshall why he had shot him. Marshall told Ball he was scared and thought Ball was going to shoot him or his partner. Ball replied, "Why were you scared, it was a fake gun." Ball eventually told Marshall that he understood why his actions would make Marshall fearful.⁷

Injuries

Ball was transported by Los Angeles County Fire Department personnel to Antelope Valley Hospital where he was treated for a gunshot wound to the rear right shoulder area.

Weapon

Ball's weapon was a black, "Umarex 9xP 4.5mm CAL" BB-gun.

Statement of Robert Ball

On June 15, 2019, detectives contacted Ball at the Palmdale Sheriff's Station jail to conduct an interview. Ball declined to speak with the detectives.

⁷ The conversation was not recorded, however, Trevillyan was present and overheard it.

Criminal Charges

Ball was charged in case MA076545 with felony violations of Vehicle Code sections 10851(a) and 2800.2, driving a stolen vehicle and recklessly fleeing from the police, which occurred on June 6, 2019. Ball was also charged with resisting a peace officer and brandishing a replica gun, misdemeanors arising from his actions on June 14, 2019. Ball pled guilty to the two felonies and was sentenced to three years and eight months in state prison on July 31, 2019. The misdemeanor charges were dismissed pursuant to the plea agreement.

THE LAW

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. See, CALCRIM No. 505.

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer “may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer’s use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

Actual danger is not necessary to justify the use of force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon these circumstances. The right to self defense is the same whether the danger is real or apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577, 580.

CONCLUSION

Robert Ball was wanted for driving a stolen vehicle and felony evading that had occurred eight days earlier. Ball fled from Trevillyan and Marshall when they attempted to detain him. During the foot pursuit, Ball removed what appeared to be a black semiautomatic firearm from his pocket. Ball ignored repeated commands to stop running and drop the gun. Ball’s behavior showed a desperation to avoid arrest. Instead of surrendering to the deputies, Ball turned toward Trevillyan with the gun pointed in his direction.

The fact that the weapon was a BB gun does not change the analysis in this case. The weapon was designed to look identical to a real semiautomatic firearm. In addition, there were no markings on the weapon to indicate that it was a replica. Marshall and Trevillyan reasonably believed the firearm was real. When Ball pointed the weapon toward Trevillyan, it placed Marshall in reasonable fear for his partner's life, as well as his own, and he responded with reasonable deadly force.

We conclude that Deputy Zachary Marshall acted in lawful self-defense and defense of another when he used deadly force against Robert Ball. We are therefore closing our file and will take no further action in this matter.