

**Officer Involved Shooting of Jose Juarez
Azusa Police Department**

Officer Dennis Tremblay, #1106

J.S.I.D. File #15-0320



JACKIE LACEY

District Attorney

Justice System Integrity Division

June 5, 2018

MEMORANDUM

TO: CHIEF STEVE HUNT
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Jose Juarez
J.S.I.D. File #15-0320
A.P.D. File #15-21661
L.A.S.D. File #015-00044-3199-057

DATE: June 5, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 24, 2015, non-fatal shooting of Jose Juarez by Azusa Police Department (APD) Officer Dennis Tremblay. It is our conclusion that Officer Tremblay acted in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on June 25, 2015, at approximately 1:30 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Lieutenant David Coleman.

The following analysis is based on reports, recorded interviews, a video recording, and photographs submitted to this office by the LASD – Homicide Bureau. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On June 24, 2015, at approximately 11:35 p.m., APD Corporal Jorge Sandoval and Officer Anthony Conwell were working patrol in the area of Donna Beth Avenue and Gladstone Street, a high crime area in the City of Azusa. Both officers were dressed in uniform, and Conwell was driving their marked black and white patrol vehicle. As they proceeded north on Donna Beth Avenue, both officers saw a man, later identified as Jose Juarez, walking southbound on the east sidewalk of Donna Beth Avenue. Juarez was wearing a flannel long sleeved shirt, which struck

Sandoval as unusual due to the warm weather.¹ Sandoval, the training officer, told Conwell to make a U-turn so they could check on Juarez.

Conwell made a U-turn and the officers drove south on Donna Beth Avenue and turned east onto Orkney Street. They did not see Juarez as they traveled on Orkney Street. When they got to Conwell Avenue, both officers looked south and saw Juarez crossing Conwell Avenue, traveling from the west to the east.² Conwell turned south onto Conwell Avenue and used the spotlight on his vehicle to illuminate Juarez. Juarez increased his speed, and looked back over his shoulder, apparently checking on the officers.³ Sandoval described Juarez as looking "agitated." Both officers exited their vehicle and began walking towards Juarez, who continued to walk away from them. As he walked away, Sandoval saw Juarez reach his hands toward his waistband.

Juarez began to run. The officers yelled that they wanted to speak with Juarez, and ordered Juarez to show his hands in both English and Spanish.⁴ Juarez did not show his hands, and hid behind a parked car. Juarez ducked down and concealed himself, but popped his head up several times. Juarez then quickly walked south, and again broke into a run.

Juarez ran a short distance and then hopped over a short chain link fence bordering the house located at [REDACTED] North Conwell Avenue.⁵ Conwell followed first, jumping over the fence, and Sandoval trailed behind. Juarez proceeded east on the driveway that bordered the north side of the residence. Juarez reached toward his waist, and Conwell was concerned that Juarez was going to remove a weapon. Juarez did not remove a weapon; instead he crouched down, and then ran to the northeast corner of the residence, out of Conwell and Sandoval's sight.

Juarez disappeared briefly and then returned, holding a rake. Juarez swung the rake, hitting the house. Conwell moved to avoid being struck by the rake, and ordered Juarez to "Put it down!" Sandoval saw Juarez throw the rake towards Conwell, and then saw the rake skid along the driveway until it made contact with Sandoval's boot. Juarez then went back to the northeast corner of the residence. The officers followed.

While in the backyard area of the home, Juarez armed himself with a shovel, held it in a "port arms" style with the metal portion elevated, lunged at the officers, and swung the shovel several times, nearly hitting Conwell and striking the home.⁶ Both officers ordered Juarez to "Drop the shovel!"⁷ Juarez moved toward the southeast corner of the residence. Conwell followed, and

¹ The high that day was recorded at 89 degrees and the low was 68 degrees, with a mean temperature of 78 degrees.

² The officer and the street share the same name.

³ At this time, Conwell recognized Juarez from a prior contact. He relayed this information to Sandoval, but did not believe Sandoval heard him because Sandoval did not respond. Conwell was one of several officers who arrested Juarez on June 12, 2015. That arrest involved a use of force by several APD officers, including a Taser deployment.

⁴ Sandoval is a fluent Spanish speaker.

⁵ [REDACTED] North Conwell Avenue is a single-family residence located on the east side of Conwell Avenue. The front of the residence faces west, and the backyard is located east of the property. There is a driveway located along the north side of the house.

⁶ Merriam-Webster defines "port arms" as "a position in the manual of arms in which the rifle is held diagonally in front of the body with the muzzle pointing upward to the left."

⁷ Juarez was mumbling or uttering words, but the officers could not understand him. Sandoval believed Juarez spoke in Spanish, and therefore Sandoval issued his commands in Spanish, while Conwell spoke in English.

Sandoval circled the other direction, ending up on the driveway. Juarez stood on the south side of a car parked in the driveway, and Sandoval took a position on the north side of the car. Juarez was still holding the shovel, and repeatedly crouched down and then peered over the hood of the car. Conwell arrived and joined Sandoval near the north side of the car. Bennie F., who was watching the events in front of the house, yelled to Juarez in Spanish, "Do what they are telling you! Drop the shovel!"⁸

Sandoval drew his Taser and walked closer to Juarez, who was still crouched down near the car. Sandoval fired his Taser at Juarez, which did not appear to affect Juarez. Juarez, still holding the shovel, ran south along the front of the residence, and then turned east, running along the south side of the house. Sandoval and Conwell followed. As they ran along the front of the house, Officer Dennis Tremblay arrived in a marked black and white vehicle. Just seconds later, Sergeant Terry Smith and Officer Jesus Landa arrived in separate vehicles.⁹ Smith grabbed his less-lethal shotgun, and Tremblay, Landa, and Smith all ran to the front of the residence.¹⁰

Sandoval directed Tremblay to run east on the driveway toward the backyard of the home, which Tremblay did. All other officers walked south along the front of the residence, and then east towards the southeast corner of the home. Smith proceeded first, followed by Sandoval, Conwell, and Landa. The area contained several bushes and trees, which the officers had to avoid as they approached Juarez, who was crouched down near the southeast corner of the residence. Tremblay approached along the east side of the home. From this position, Tremblay could see Juarez holding the shovel with the metal spade portion pointed up, but could not see the other officers. Likewise, Smith, Sandoval, Conwell and Landa could not see Tremblay, although they could hear him. The officers repeatedly ordered Juarez to "Drop the shovel!"

Juarez stood facing Tremblay, holding the shovel with the spade up. Tremblay, a fluent Spanish speaker, ordered Juarez in Spanish to "Drop the shovel!" Juarez responded to Tremblay in Spanish, saying "Let me go or I'm going to kill you!" Tremblay again ordered Juarez to "Drop the shovel!" Juarez initially responded, "I'm going to kill you!," but then stated, "Kill me! Kill me!"

Tremblay told Juarez, "We are not going to kill you! Just drop the shovel!" Juarez turned to look at the officers east of him, and then looked back at Tremblay. As Juarez stood with the shovel over his head, focusing on Tremblay, Smith fired his less lethal shotgun at Juarez.¹¹ Juarez walked northbound, towards Tremblay. Tremblay described Juarez as looking very angry, "like he wanted to murder me." Tremblay saw Juarez charge at him, holding the shovel like a baseball bat. Juarez closed the distance to approximately seven to ten feet, and believing

⁸ Several witnesses, including Marcelino G., Lizette J., David M., Elizabeth M., Jessica F., and Gabby J., heard the officers tell Juarez to "Drop the shovel!"

⁹ Tremblay, Smith, and Landa were all dressed in uniform.

¹⁰ Conwell and Sandoval had been broadcasting this event as it unfolded. Although they did not broadcast the numerical address of the residence, Sandoval dropped his flashlight in the front yard and aired that information so responding units could find them.

¹¹ Smith knew there was an officer on the east side of the house because he could hear commands coming from that direction, and saw a flashlight emanating from the same area. Tremblay held his flashlight in his left hand, and his duty weapon in his right hand. Smith recalled that Juarez began to advance toward Tremblay just prior to Smith firing his less-lethal shotgun.

Juarez was going to attack him with the shovel, Tremblay fired his duty weapon at Juarez. Juarez remained standing and did not relinquish the shovel.

The officers who were positioned on the south side of the house moved to the backyard on the east side of the house. Juarez was standing, holding the shovel and facing Tremblay. Smith fired several additional less-lethal shotgun rounds at Juarez. At some point, Juarez dropped to the ground, laying on his back, still holding the shovel.

The officers repeatedly ordered Juarez to drop the shovel and attempted to disarm Juarez as he laid on the ground, flailing and swinging the shovel. During the struggle to disarm Juarez, Conwell deployed his Taser, which caused Juarez to momentarily freeze.¹² However, the officers were still unable to disarm Juarez. Smith also fired his less-lethal shotgun and Sandoval used his baton to strike Juarez several times in his triceps and back area, but Juarez blocked at least one of the strikes with the shovel handle and at one point, struck Sandoval in the upper torso with the shovel.¹³ Juarez moved the edge of the shovel's spade to his neck, and moved it up and down in a sawing motion, as if he was trying to hurt himself. At some point, the officers were able to grab the shovel and roll Juarez onto his stomach.

Juarez continued to struggle while on his stomach. Ultimately, Landa approached to pull one of Juarez' hands from under his body. Landa knew Juarez from previous encounters and called him by name. Juarez recognized Landa, told Landa that he trusted him, and allowed Landa to complete the handcuffing process.

Paramedics were called, arrived to the scene, and transported Juarez to USC Medical Center. Juarez was treated for gunshot wounds to his left hip, left elbow, and right hand. Two Taser darts were removed from Juarez' body: one from his right lower abdomen and the other from his left bicep. Juarez survived his injuries.¹⁴

Juarez would not provide the investigators with a statement as to what occurred.

Juarez' sister, brother-in-law, and their family live at the location in question. Although several family members were inside the home and witnessed or heard a portion of the events, including gunshots, none saw the officer involved shooting.

Maria R. is Juarez' sister. She was asleep in her bedroom located in the southwest corner of the home when she heard running and yelling, which woke her. Maria R. then heard loud knocking on her front door. She got up, went to the front door, and looked out. Maria R. saw two police officers standing north of a vehicle parked in her driveway. Her daughters pulled her away from the front door and walked with her back to her bedroom.¹⁵ A short time later, Maria R. heard

¹² It appears that Conwell fired his Taser twice while attempting to disarm Juarez.

¹³ Sandoval was wearing a protective vest at the time. He had a small red mark as a result of the blow.

¹⁴ This office filed criminal charges against Juarez for his behavior in this matter. However, the People announced unable to proceed because a necessary witness had been deployed for military service and was unavailable. When that witness returns from his deployment, the People intend to refile charges.

¹⁵ One of her daughters, Lucia R., told investigators she saw a man crouching by the car, looking north, when she went to get her mother.

noise emanating from the backyard. She walked to the kitchen and looked out the east facing window for a few seconds. Maria R. saw two police officers standing on the elevated portion of her backyard. The officers were shining their flashlights towards the southeast corner of her home. Maria R. heard one gunshot, but did not know who fired. She did not see Juarez at that time. Later, after the paramedics arrived, Maria R. asked Juarez what he did. Juarez responded that he did not do anything.

Guillermo R. is Maria R.'s husband. Guillermo R. was sleeping in the southwest bedroom when he heard the sound of running in the backyard. Guillermo R. exited the bedroom and heard knocking emanating from the front door. He looked out the small windows in the front door and saw a person, who he did not immediately recognize as Juarez, crouched behind the car parked in his driveway, and officers standing north of the car. The officers were pointing guns at the man and telling him to give up, and the man was yelling to call the Sheriff's Department.

Guillermo R. heard the officers ordering the man to "Drop the shovel!" He then heard a commotion in the backyard, followed by several gunshots. Guillermo R. looked out the east facing kitchen window, and saw the officers throw Juarez to the ground. He saw the officers handcuff Juarez, and saw several officers place their knees on Juarez. Guillermo R. did not see Juarez holding a shovel due to the darkness and the angle at which he was viewing the events, but heard the officers tell Juarez to let go of the shovel.¹⁶

Roman R. is Juarez' nephew, and lives at the residence in the southeast bedroom with his wife and three small children. They were in their bedroom when Roman R. heard noises in the backyard, followed by running to the front yard. Roman R. exited his bedroom and looked out the living room window. Roman R. saw Juarez hiding behind a car parked in the driveway. Roman R. also saw two police officers shining flashlights and pointing their guns at Juarez. Juarez yelled to Roman R., "Call the Sheriffs! Call the Sheriffs!" Roman R. told family members to call the Sheriff's Department.

Roman R. saw Juarez run to the backyard, followed by the officers, and then heard a gunshot. Roman R. went to the kitchen window and looked out to the backyard area. Roman R. initially had a hard time seeing what was occurring, but heard the officers tell Juarez to drop what he was carrying.¹⁷ Roman R. heard additional commands by the officers and then heard a second gunshot, followed by a third gunshot. Roman R. saw Juarez fall to the ground, holding a shovel.¹⁸ After Juarez fell, Roman R. heard another gunshot, and saw the officer take the shovel from Juarez. The officers rolled Juarez onto his stomach, pulled his hands behind his back, and handcuffed him. Roman R. believed two officers hit, or tried to hit, Juarez after he was handcuffed. Roman R. yelled to the officers, "Hey, don't hit him! Why are you hitting him?" In addition to Juarez' family, several others in the area witnessed a portion of the events.

¹⁶ The backyard lights were not illuminated at the time of the incident. After Juarez was handcuffed, an officer asked Roman R. where the outdoor light switch was, and turned on the lights to the backyard.

¹⁷ Roman R.'s wife, Lorena R., heard the officers yell, "Put down the shovel!" Lorena R. did not see the incident.

¹⁸ Roman R. indicated Juarez was holding the shovel with two hands, similar to a baseball player holding a bat. Roman R. believed Juarez was holding the shovel in a defensive, not offensive, manner, and was moving the shovel up and down to protect himself from the officers.

Bennie F. was inside his home on Conwell Avenue when he heard a commotion outside and someone yelling, "Put your hands up!" He exited his residence, heard someone yell, "Drop the shovel!" and saw Juarez run from the south side of a residence, holding a shovel. Juarez banged on the front door with the shovel and yelled, "Let me in!" or "Open the door!" Bennie F. described Juarez as looking "panicked" and "frantic."

Bennie F. saw the officers travel westbound on the driveway and approach Juarez. The officers stood on one side of a car parked in the driveway, as Juarez crouched down, hiding behind the other side. Bennie F. told Juarez to drop the shovel and lay down. Bennie F. saw Juarez briefly put the shovel down, but then pick it up again. Juarez used the shovel to shield his face. The officers yelled in Spanish for Juarez to "Drop the shovel!" Bennie F. heard a "pop" and the sound of a Taser. Bennie F. did not believe the Taser deployment was effective because Juarez again ran alongside the house towards the backyard.

The officers went to the rear yard, including an officer with a shotgun. Bennie F. could not see the backyard from his location, but heard the officers issue repeated commands. He heard two shots, which he believed were from a bean bag shotgun, and the sound of a Taser. He then heard five to six rounds. Bennie F. was unsure if the rounds were from a firearm. Bennie F. believed the officers behaved professionally, and stated, "I'm surprised they didn't shoot him out in the front."

David M. was inside his home on Conwell Avenue when he heard running and someone yelling, "Put up your hands!" David M. went outside his home and stood in his front yard. David M. saw Juarez, holding a shovel, on the south side of a car parked in the driveway of 5438 North Conwell Avenue. He also saw two police officers near the car; one officer was on the north side of the car and one officer was on the northwest corner of the car. The officers were pointing their weapons, which David M. believed might be a Taser or handgun, at Juarez and yelling for Juarez to "Put down the shovel!" Juarez was holding the shovel in both hands, hiding his face. One officer fired a Taser at Juarez, but David M. did not believe the Taser affected Juarez.

Juarez ran to the south side of the house. One officer ran along the north side and David M. believed the second officer ran to the south side. More officers arrived and went to the backyard area, out of David M.'s view. David M. went inside his residence so he could look out the rear door to his home. David M. could still not see what was happening, but heard the sound of banging, and repeated commands to "Put down the shovel!" David M. heard a single shot, followed by four to five shots a few seconds later. After the shots, David M. still heard the officers yelling to "Let me see your hands!"

Giovanni R. was inside his house watching a movie when he went outside to see what was happening. Giovanni R. saw officers run to the backyard of a residence on Conwell Avenue, but did not see a suspect. Giovanni R. heard the command, "Drop the gun!" two to three times, in Spanish. He then immediately heard four to five gunshots, a pause, and then two more gunshots. He did not see what occurred.¹⁹

¹⁹ As he stood in the front yard of his residence, Giovanni R. turned on his phone and attempted to record what was occurring. The video recording is 3 minutes and 38 seconds long. Due to darkness, nothing of substance can be seen on the recording. A single shot, followed less than one second later by a quick volley of three shots, can be

Investigators recovered a beanbag shotgun from the backyard, east of the home. The shotgun was empty at the time it was recovered. Five expended beanbag casings and five expended beanbag projectiles were recovered. Investigators located three expended Taser cartridges; two cartridges were found in the backyard of the residence, and one was found near the southwest corner of the location.

Tremblay was armed with a Glock 22, .40 caliber semiautomatic handgun. After the incident, Tremblay's firearm was loaded with 13 live rounds. The maximum capacity of this firearm is 16 rounds. Investigators located three expended .40 caliber casings in the backyard of the residence. Tremblay fired his service weapon three times.



Figure 1: Evidence collected on the east side of the residence, including item 2, less-lethal shotgun; items 3 and 19, Taser cartridges; item 4, expanded baton; items 12, 13 and 14, expended cartridge casings; and item 18, wood handled shovel.

CONCLUSION

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make

heard. Fourteen seconds later, a fifth shot can be heard, followed by a sixth gunshot seven seconds later. A seventh gunshot is heard two seconds after the sixth gunshot. Thirty-five seconds later, a final shot is heard. Yelling can be heard in the distance before, during, and after the gunfire. Approximately 30 seconds later, an air unit arrives, and the noise from the air unit drowns out all other potentially relevant noise.

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 deadly 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 those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505. The People have the burden of proving beyond a reasonable doubt that a person did not act in lawful self-defense or defense of another. If the People fail to meet this burden, a jury must find the defendant not guilty. CALCRIM No. 3470.

The evidence examined shows that Jose Juarez armed himself first with a rake, and then with a shovel, in an attempt to avoid Officers Sandoval and Conwell, who were trying to lawfully contact him. Sandoval and Conwell ordered Juarez to "Drop the shovel!" several times, but Juarez refused to drop the shovel, swung the shovel at Conwell, nearly hitting him, and repeatedly attempted to avoid contact with the officers.

Officer Dennis Tremblay was one of several APD officers who arrived to assist Sandoval and Conwell. Tremblay positioned himself in the backyard on the east side of the residence, while the other officers walked along the south side of the home towards the southeast corner. The officers collectively attempted to persuade Juarez to relinquish the shovel by issuing orders, deploying a Taser, and firing several less-lethal shotgun rounds at him, to no avail. Juarez verbally threatened to kill the officers, and then requested the officers "kill" him. Juarez aggressively approached Tremblay "like he wanted to murder [him]" and held the shovel like a baseball bat. As Juarez charged toward Tremblay, Tremblay reasonably believed that Juarez was going to attack him with the shovel. In fear for his life, Tremblay fired his duty weapon at Juarez, wounding him.

We conclude that Officer Dennis Tremblay was placed in reasonable fear of death or great bodily injury by Jose Juarez' actions and acted lawfully in self-defense when he used deadly force. We are therefore closing our file and will take no further action in this matter.