

**Officer Involved Shooting of Andre Jones**

**Los Angeles Police Department**

**Officers Michael Munjekovich #37277, Gabriel Holguin #37182,  
Thomas Callian #38031, Canaan Bodell #34688, Cliff Chu #33547,  
John Ferraro #34769, Nelson Fong #30226, Robert Gallegos #30619,  
James Gastelo #30509, Timothy McCarthy #31328,  
Isaac Moreno #35866, Howard Ng #30405, and Mario Rios #32123**

**J.S.I.D. File #14-0542**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**January 6, 2016**

## MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ  
Force Investigation Division  
Los Angeles Police Department  
100 W. First Street, Suite 431  
Los Angeles, California 90012

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

SUBJECT: Officer Involved Shooting of Andre Jones  
J.S.I.D. File No. 14-0542  
F.I.D. File No. F053-14

DATE: January 6, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 18, 2014, fatal shooting of Andre Jones by Los Angeles Police Department (LAPD) Officers Michael Munjekovich, Gabriel Holguin, Thomas Callian, Canaan Bodell, Cliff Chu, John Ferraro, Nelson Fong, Robert Gallegos, James Gastelo, Timothy McCarthy, Isaac Moreno, Howard Ng, and Mario Rios. It is our conclusion that the officers acted in lawful self-defense and in the lawful defense of another.

The District Attorney's Command Center was notified of the shooting on August 18, 2014, at approximately 3:48 a.m. The District Attorney Response Team (DART), [REDACTED], responded and was given a briefing and a walk-through of the scene.

The following analysis is based on various reports prepared by the LAPD Force Investigation Division (FID). The compelled statements of Officers Munjekovich, Holguin, Callian, Bodell, Chu, Ferraro, Fong, Gallegos, Gastelo, McCarthy, Moreno, Ng, and Rios were reviewed.

### PROLOGUE

On August 18, 2014, at approximately 2:12 a.m., LAPD Officers Gabriel Holguin and Michael Munjekovich were on patrol in a marked black and white vehicle when they observed Avel Turks, the driver of a gold Chevrolet Tahoe, fail to stop for a stop-sign at the corner of 81<sup>st</sup> and Broadway Street in the City of Los Angeles.<sup>1</sup> Turks' sole passenger, Andre Jones, rode in the front passenger seat. Neither Holguin nor Munjekovich were aware that Jones was armed with an assault rifle equipped with a high capacity magazine.

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<sup>1</sup> Holguin was driving the patrol car and Munjekovich was in the front passenger seat.

The officers followed Turks as he sped through another stop sign and turned north onto Grand Avenue. Turks accelerated to a high speed and failed to stop for another stop sign at 79<sup>th</sup> Street and Grand Avenue. When Holguin and Munjekovich activated their emergency overhead lights, Turks increased his speed and went through a fourth stop sign at 76<sup>th</sup> Street and Grand Avenue. As Turks continued driving north, he sped through a red light at Florence Avenue and entered the 110 freeway going north. As the officers followed Turks and Jones, they activated their vehicle's siren, and requested both an air unit and back-up officers.

Turks reached speeds of over 80 miles per hour as he swerved in and out of traffic on the 110 freeway and then exited the freeway at Vernon Avenue. Turks subsequently crossed Vernon Avenue and drove onto a freeway entrance ramp for the northbound 110 freeway.

Turks suddenly stopped the Tahoe on the on-ramp. Jones opened the front passenger door of the Tahoe and fired at Munjekovich and Holguin as they drove towards Turks and Jones in their patrol vehicle. A bullet from Jones's rifle pierced the patrol car's front windshield. Munjekovich, who was seated in the passenger seat of the patrol car, fired his service pistol five times through the windshield at Jones.<sup>2</sup> Jones got back into the Tahoe and Turks drove up the on-ramp to the northbound 110 freeway.

As Turks drove north on the 110 freeway, Officer Thomas Callian and Andre Burton joined Munjekovich and Holguin in the pursuit. Turks exited the 110 freeway at Martin Luther King Boulevard and drove northbound on Hill Street. When Turks turned westbound onto 37<sup>th</sup> Street, he lost control of the vehicle and collided into a tree and pole on the north side of 37<sup>th</sup> Street.

Holguin stopped his patrol car at the intersection of 37<sup>th</sup> and Hill Street and was immediately struck from behind by Callian who had been following at high speed. Jones, who had exited the damaged Tahoe, fired at Officers Callian, Burton, Munjekovich and Holguin. Munjekovich, Holguin and Callian returned fire.<sup>3</sup> Jones and Turks ran west down 37<sup>th</sup> Street towards Grand Avenue. Multiple LAPD Officers responded to the location to assist in capturing Turks and Jones before they could flee the area.

A helicopter manned by Officers Micheal Fraser and Jason Chappell also responded to the location. Fraser established a perimeter around the location of the crash and shooting. Sergeant Thomas Bojorquez, the incident commander at the location, subsequently requested the assistance of the Metropolitan Division Special Weapons and Tactics (SWAT) unit and K-9 officers.

A second helicopter equipped with an infrared detection system manned by Officers Michael Rodriguez and Greg Duran arrived to assist in locating Jones and Turks. The helicopter scanned the area and identified an unknown heat source in a trash dumpster located at 3705 South Grand Avenue. Multiple SWAT officers responded to the location and were organized into three teams. Team one consisted of Officers Enrique Anzaldo, Cliff Chu, Timothy McCarthy, Issac Moreno,

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<sup>2</sup> Jones fired upon the officers so suddenly that Munjekovich did not have an opportunity to exit the patrol vehicle before firing at Jones.

<sup>3</sup> Burton went to the trunk of his vehicle to retrieve his rifle and did not have an opportunity to fire at Jones before Jones fled west down 37<sup>th</sup> Street.

Mario Rios, Jonathan Pultz, Canaan Bodell and K-9 Officer Ringo. Team two consisted of Officers Eduardo Perez, Aron Algren, Robert Gallegos, Matthew Killman, David Corbet, Floyd Curry, Sergeant Leonard Christian and K-9 Officer Roscoe. Team three consisted of Officers Troy Thomas, Jeff Miller, James Gastelo, John Ferraro, Nelson Fong, Michael Messenger, Ivan Ramos, and K-9 Officer Nico.<sup>4</sup>

In addition, Officer Howard Ng arrived at the location in a MedCat armored vehicle equipped with medical trauma supplies. A second armored vehicle known as a BearCat was also brought to the location.

Members of the first and second SWAT teams surrounded Turks who was hiding in the dumpster located at 3705 South Grand Avenue. Sergeant Leonard Christian informed Turks that he was surrounded, ordered him to come out of the dumpster and advised him to follow the officers' directions. Christian also warned Turks that the officers might use force if he did not come out of the dumpster. Turks did not respond. Officer Perez deployed a Magnum stun grenade under the dumpster which detonated. Turks did not respond and remained inside the dumpster. As other SWAT officers provided cover, Officer McCarthy tossed a Stinger grenade into the dumpster.<sup>5</sup> The Stinger grenade detonated and moments later, Turks stood up with his hands raised and screamed, "I give up."

After Turks was taken into custody, Rodriguez located an unknown heat source next to a palm tree on the east side of Grand Avenue south of 37<sup>th</sup> Street; he directed officers on the ground to that location. Officer Perez approached the location with several officers and spotted Jones attempting to conceal himself behind a palm tree. As Perez and other officers moved south down Grand Avenue towards Jones, Jones moved away from the tree and positioned himself behind the rear area of a car parked close-by and pointed the rifle he was carrying at the police officers.

Perez warned his fellow officers that Jones was armed with a rifle. The officers took cover behind cars parked on the east and west side of Grand Avenue, north of Jones' location. Officers Ferraro and Rios, who had taken a position behind a Dodge Challenger on the west side of the street with several other officers, fired at Jones as he exposed himself slightly while still holding the rifle. Jones took cover again at the rear of the car and aimed his rifle once again towards the officers.

In order to provide cover for the officers as they advanced towards Jones' position, SWAT Officer Anzaldo ordered the MedCat and BearCat vehicles to slowly move south down Grand Avenue.

Jones fired his assault rifle north in the direction of a Dodge Challenger parked on the west side of Grand Avenue which SWAT Officers Bodell, Rios, Fong, Ferraro, and Messenger were using

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<sup>4</sup> K-9 Officers Ringo, Roscoe and Nico are police dogs.

<sup>5</sup> A Magnum stun grenade is a tactical stun munition that produces a loud noise and bright light designed to disorient a suspect. A Stinger grenade is a rubber grenade filled with oleoresin capsicum and rubber projectiles; it is designed for use in confined spaces where directly approaching a suspect presents a situation which is inherently dangerous.

for cover. Rios, Ferraro, Bodell, and Fong fired at Jones with their rifles. Officer Gallegos, who was positioned on the east side of Grand Avenue across the street from the officers clustered around the Challenger, also fired at Jones.

After the volley of gunfire between Jones and the officers, the BearCat moved further south down the street. Several officers moved next to and behind the BearCat including McCarthy, Bodell, Ferraro, Moreno, Fong, Messenger, Anzaldo and Sergeant Christian. McCarthy and Christian went inside the BearCat. Rios and Chu remained behind the Challenger.

Jones fired in the direction of the BearCat and the Challenger on the west side of the street which the officers had employed for cover.<sup>6</sup> Several bullets struck the BearCat and Fong, who was positioned alongside the front passenger portion of the BearCat, was shot in the left shin.<sup>7</sup> Fong fired at Jones and fell backwards.<sup>8</sup> Bodell, who had assumed a prone position behind the BearCat once it had stopped, fired under the vehicle towards Jones.

Seeing that Fong was seriously injured and bleeding profusely, Ferraro pulled him to the rear of the Challenger they had previously used for cover. Bodell, Gastello, Moreno, Ng, Rios, McCarthy and Chu fired at Jones.<sup>9</sup> Jones was struck by gunfire and collapsed.

The paramedics who responded to the location in an attempt to treat Jones determined that he was dead. Officer Fong was initially treated at the location by officers and paramedics; he was later transported to the hospital.

The rifle used by Jones (a Norinco 7.62 x 39 caliber SKS assault rifle with a loaded drum magazine) to shoot Officer Fong and which Jones fired at several officers including Munjekovich, Holguin, Callian, Bodell, Chu, Ferraro, Gallegos, Gastelo, McCarthy, Moreno, Ng, and Rios was later recovered from the crime scene on 37<sup>th</sup> Street by personnel from the LAPD Scientific Investigation Division (SID).

On August 21, 2014 and August 22, 2014, Los Angeles County Coroner Deputy Medical Examiner Kevin Young conducted an autopsy of Jones' body and determined that Jones had sustained at least eight gunshot wounds, four of which he deemed fatal. Young determined that two of the four fatal gunshots were to Jones' chest, that one was to his waist area and that another was to his head. Young also noted that Jones sustained four separate bullet graze wounds.

Blood samples taken from Jones' body were analyzed for the presence of controlled substances by the Los Angeles County Coroner's Office and tested positive for the presence of marijuana, ethanol, codeine and morphine.

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<sup>6</sup> Several civilians in the area witnessed all or part of the gunfire between Jones and LAPD officers in the area of 37<sup>th</sup> Street and Grand. Witnesses Franciso Reyes and Nancy Torres both informed LAPD FID Investigators that Jones fired first at the officers who then shot and killed him. Witness John Cardoza informed LAPD FID investigators that he heard officers at the scene ordering Jones to drop his weapon before he was shot.

<sup>7</sup> The bullet which struck Fong broke bones in his lower leg and exited through his left calf.

<sup>8</sup> Investigators were unable to determine whether Fong shot at Jones before or after he was shot.

<sup>9</sup> Based on interviews with the officers in this case, FID investigators learned that Jones fired his rifle from behind, next to and prone to the car that he used for cover.

## CONCLUSION

The use of deadly force in self-defense or in the defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or someone else 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*.

The test for whether an officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Munoz v. City of Union City* (2004) 120 Cal.App.4<sup>th</sup> 1077, 1102. Reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Graham v. Connor* (1989) 490 U.S. 386, 396. "The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* "The calculus of reasonableness must embody allowance for the fact that police 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." *Id.* at 396-97.

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 apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577; See also *People v. Minifie* (1996) 13 Cal.4<sup>th</sup> 1055, 1068; *People v. Clark* (1982) 130 Cal.App.3d 371, 377; *People v. Collins* (1961) 189 Cal.App.2d 575, 588.

The evidence presented in this case demonstrates that Officers Munjekovich, Holguin, Callian, Bodell, Chu, Ferraro, Fong, Gallegos, Gastelo, McCarthy, Moreno, Ng, and Rios each reasonably believed that Andre Jones' violent and deadly behavior posed a significant threat of death or serious physical injury to themselves and their fellow officers.

From their initial contact with Officers Munjekovich and Holguin, Jones and Turks engaged in a course of conduct which placed the general public and members of the LAPD at a great risk of serious bodily injury and death.

After committing a series of dangerous traffic violations, including speeding through several stop signs, Turks and Jones led Officers Munjekovich and Holguin on a high speed chase. When Munjekovich and Holguin drove closely behind Jones and Turks, Turks stopped and Jones fired a high powered assault rifle at the patrol car driven by the officers. A bullet fired by Jones struck the front windshield. Officer Munjekovich, who was seated in the passenger seat of the patrol car, reacted immediately and fired his service pistol five times through the windshield at Jones. Jones' attack was so sudden and unexpected that Munjekovich did not have the time to exit the patrol vehicle before firing his service pistol in defense of himself and his partner.

After the attack on Munjekovich and Holguin, Jones and Turks sped away triggering a high speed pursuit that placed the general public and the officers following Jones and Turks at great risk of suffering serious bodily injury or death. When Turks turned westbound onto 37<sup>th</sup> Street, he lost control of the vehicle and collided into a tree and pole. Instead of surrendering, Turks ran away from the scene of the collision and Jones fired at Munjekovich, Holguin, Callian and Burton. Munjekovich, Holguin and Callian returned fire.

Turks eventually surrendered after being located in a dumpster from which he was forced out by a Stinger grenade. Jones, however, ran and hid on the east side of Grand Avenue, south of 37<sup>th</sup> Street, near a tree, parked car and telephone pole.

When LAPD officers discovered his location and closed in to arrest him, Jones did not surrender. Jones fired his assault rifle at SWAT Officers Bodell, Rios, Fong, Ferraro, and Messenger. Rios, Ferraro, Bodell, and Fong returned fire at Jones. Officer Gallegos also fired at Jones.

After the first firefight, several officers, including McCarthy, Bodell, Ferraro, Moreno, Fong, Messenger, Anzaldo and Sergeant Christian moved next to and behind the BearCat vehicle making its way south towards Jones' position. Jones fired at the BearCat and the officers. Several bullets struck the BearCat and Fong, who was positioned alongside the front passenger portion of the BearCat, was shot in the left leg.

Bodell, Gastello, Moreno, Ng, Rios, McCarthy and Chu returned fired at Jones. Jones was struck by gunfire and collapsed. Fong was seriously wounded and transported to the hospital.

Given the totality of the evidence presented, we find that Officers Michael Munjekovich, Gabriel Holguin, Thomas Callian, Canaan Bodell, Cliff Chu, John Ferraro, Nelson Fong, Robert Gallegos, James Gastelo, Timothy McCarthy, Isaac Moreno, Howard Ng, and Mario Rios acted in lawful self-defense and in lawful defense of their fellow officers when they used deadly force against Andre Jones. We are therefore closing our file and will take no further action in this matter.