

Officer Involved Shooting of David Wear

Los Angeles Police Department

**Officer Ryan Secor, #38407
Officer Carlos Gonzalez, #40901**

J.S.I.D. File #14-0732



JACKIE LACEY

District Attorney

Justice System Integrity Division

April 6, 2016

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
Force Investigation Division
Los Angeles Police Department
100 West 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 David Wear
J.S.I.D. #14-0732
F.I.D. #076-14

DATE: April 6, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 5, 2014, fatal shooting of David Wear, by Los Angeles Police Department (LAPD) Officers Ryan Secor and Carlos Gonzalez. It is our conclusion that Officers Secor and Gonzalez acted in lawful self-defense and defense of others at the time each fired his weapon.

The District Attorney's Command Center was notified of this shooting on December 5, 2014, at approximately 8:40 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene by LAPD Lieutenant Brian Gilman.

The following analysis is based on reports, interview transcripts, and photographs submitted to this office by the LAPD – Force Investigation Division. The compelled statements of Officers Secor and Gonzalez were not considered in this analysis.

FACTUAL ANALYSIS

On December 5, 2014, at approximately 6:45 p.m., LAPD Officers Carlos Gonzalez and Ryan Secor were working Hollywood Division assigned to the Hollywood Entertainment District foot beat. They were dressed in full police uniform and patrolling the area of Hollywood Boulevard. Both officers responded to a radio call of an ADW suspect armed with a knife at the intersection of Hollywood Boulevard and Highland Avenue.

Gonzalez and Secor arrived at the location and stood on the northwest corner of the intersection. A pedestrian directed their attention to the suspect, later identified as David Wear, who was walking across Highland Avenue.

The officers observed Wear chasing another man while threatening him with a knife.¹ The man was ducking and attempting to move to avoid being stabbed by Wear. Other pedestrians in the area were moving away from Wear in order to avoid being struck with the knife. The officers ordered Wear to “Stop!” and “Drop the knife!” Wear failed to comply with the officers’ commands and, still holding the knife, continued to advance toward the officers. As Wear approached the curb, the officers fired their duty weapons at Wear, striking him.² Wear fell to the ground just adjacent to the curb. The folding Swiss Army knife that Wear was holding was recovered next to where he fell.³

Los Angeles Fire Department responded to the location and transported Wear to Cedars-Sinai Medical Center. Despite life-saving efforts, Wear succumbed to his injuries. The Swiss Army knife used by Wear was recovered at the scene by investigators. The knife had a three inch blade and an overall length of 7 ¾ inches.

Officer Secor was armed with his departmental-authorized .40 caliber Glock model 22 semiautomatic pistol. The maximum capacity of this firearm is sixteen total rounds. When examined after this incident, Secor’s duty weapon contained thirteen total rounds. Three expended cartridge cases were collected at the scene and determined to have been fired from Secor’s pistol. Secor fired his duty weapon three times.

Officer Gonzalez was armed with his department-authorized 9mm Glock model 17 semiautomatic pistol. The maximum capacity of this firearm is eighteen rounds. When examined after this incident, Gonzalez’s duty weapon contained fifteen total rounds. Three expended cartridge cases were collected at the scene and determined to have been fired from Gonzalez’s pistol. Gonzalez fired his duty weapon three times.

On December 9, 2014, Deputy Medical Examiner Ajay Panchal, M.D., performed an autopsy on Wear. Wear sustained a total of seven gunshot wounds: one wound to the chest, four wounds to the torso, one wound to the right upper right back, and one wound through the back of Wear’s right arm. Dr. Panchal was unable to conclusively determine how six gunshots caused seven gunshot wounds based upon the evidence presented to him. Dr. Panchal ascribed the cause of death as multiple gunshot wounds. A toxicology analysis revealed Wear had ethanol, mirtazapine, amphetamine, methamphetamine, cocaine, and olanzapine in his system at the time of his death.⁴

¹ Investigators were unable to locate this man.

² Witnesses gave various estimates regarding the distance between the officers and Wear, ranging from five feet to 15 feet.

³ A surveillance camera captured the officers’ actions, but did not capture any of the activity by Wear or others that occurred in the crosswalk area. The officers can be seen speaking to a man who directs their attention to the crosswalk area. The officers walk a few steps to the corner of the intersection of Hollywood Boulevard and Highland Avenue, draw their weapons, and remain on the sidewalk. The officers’ attention is focused in the direction of the crosswalk and they fire their weapons. Just after their weapons are discharged, Wear fell to the ground. A small portion of Wears’ body can be seen in the area adjacent to the sidewalk.

⁴ At the time of his death, Wear was 42 years old, 6’2” tall, and weighed 160 pounds

This incident occurred in a heavily populated area and multiple witnesses were interviewed. Armando Sanchez was driving southbound on Highland Avenue when he noticed Wear and another man arguing in the middle of the crosswalk. Wear pulled a black pocket knife from his back pocket, opened the knife, and followed the other man as the man attempted to flee from Wear. Sanchez observed two officers on the corner of Highland Avenue and Hollywood Boulevard. The officers ordered Wear to “Stop!” and “Drop it!” several times. Wear did not drop the knife and continued to walk until he was “really close to the sidewalk.” When Wear was approximately 10 to 15 feet from the officers, the officers fired their weapons at Wear. Sanchez stated, “It was definitely a threat” and “I think [the] officers were in danger if they wouldn’t have shot him...”

Leslie Watkins was stopped at a red light on the corner of Hollywood Boulevard and Highland Avenue when she observed Wear arguing with another man as they proceeded westbound in the crosswalk. Wear was holding a knife. Wear pointed the knife at the man as Wear approached him. Two officers standing on the curb on the corner of Hollywood Boulevard and Highland Avenue ordered Wear to “Put the knife down!” multiple times. Wear did not put down the knife and the officers fired at Wear approximately three to four times. Watkins indicated, “From my perspective, I did feel like that the man with the knife was endangering people...I did feel like he was aggressive and that he was threatening people.”

Jocelyn Jenks was walking near the intersection of Hollywood Boulevard and Highland Avenue when she heard two officers repeatedly yell, “Drop the knife!” Jenks looked and saw Wear walking toward the officers. Wear was holding something in his clenched fist, but Jenks was unable to identify the item. At the time the officers fired their weapons, Wear was “walking towards them” and he was “lifting his hand up.” The officers fired their weapons at Wear and Wear fell to the ground bleeding. The officers said, “He still has the knife! He still has the knife!” and attempted to keep the crowd away from Wear. Additional officers arrived and handcuffed Wear.⁵

CONCLUSION

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 and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505.

“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 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.

⁵ Nelson Luna, who was with Jenks, heard the officers order Wear to “Drop the knife!” and observed Wear holding a knife as he walked towards the officers. Wear was “four or five feet” from the officers when they fired. Luna also saw an officer kick the knife out of Wear’s hand as other officers were handcuffing him.

The evidence examined in this investigation shows that Officers Secor and Gonzalez responded to a call of an ADW suspect armed with a knife near the intersection of Hollywood Boulevard and Highland Avenue. Upon arrival, they saw Wear walking westbound across Highland Avenue. Secor and Gonzalez observed that Wear was armed with a knife and was threatening pedestrians in the area. The officers ordered Wear to “Stop!” and “Drop the knife!” Wear failed to comply with the commands and continued to advance toward the officers. In fear for their lives and the lives of others in the area, Secor and Gonzalez discharged their service weapons.

We conclude that Officers Ryan Secor and Carlos Gonzalez were placed in reasonable fear of death or great bodily injury by Wear’s actions and acted lawfully in self-defense and defense of others when they used deadly force. We are therefore closing our file and will take no further action in this matter.