

Fatal Officer Involved Shooting of Michael Uccello
Los Angeles County Sheriff's Department

Deputy United States Marshal Richard Fritsch

J.S.I.D. File #19-0432



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

January 10, 2022

MEMORANDUM

TO: ANALYST KARLI GAINES
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Washington, DC 20530-0001

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

SUBJECT: Fatal Officer Involved Shooting of Michael Uccello
J.S.I.D. File # 19-0432
L.A.S.D. File # 019-21507-1121-057-138

DATE: January 10, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 10, 2019, fatal shooting of Michael Uccello by United States Marshal's Office Deputy Richard Fritsch. We find that there is insufficient evidence to prove beyond a reasonable doubt that Deputy Fritsch did not act in lawful self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on October 10, 2019, at approximately 10:45 a.m. The District Attorney Response Team responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based upon the recorded interviews of involved parties and witnesses, surveillance video footage, and reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Detectives Theo Baljet and Julia Levenson of the Homicide Bureau.

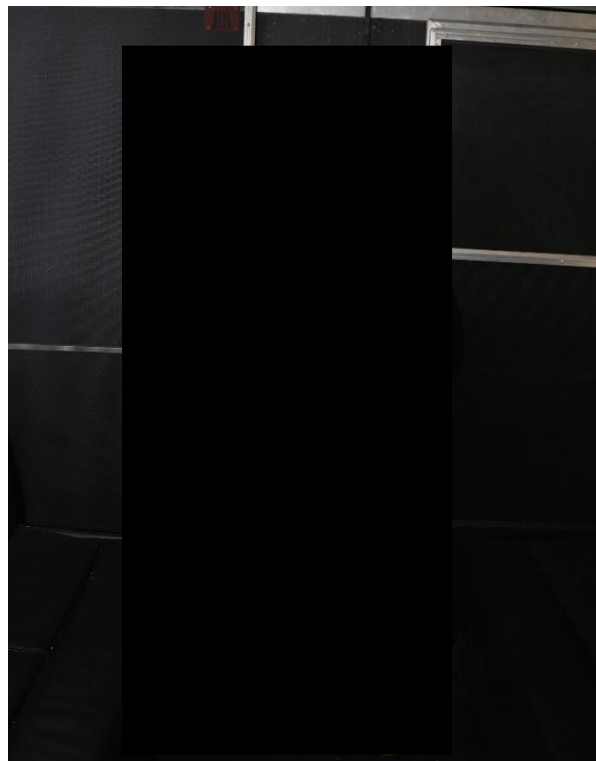
FACTUAL ANALYSIS

On Thursday, October 10, 2019, at approximately 9:15 a.m., Deputy United States (U.S.) Marshals Richard Fritsch and Adam Groff were conducting surveillance of Michael Uccello who had an outstanding "no bail" felony warrant for narcotics trafficking from Ohio. Fritsch and Groff were wearing plain clothes with tactical gear underneath. Fritsch was driving a black Ford

F150. Groff was driving a black Chevy Silverado. Both vehicles were equipped with red and blue emergency lights and sirens that were activated. Fritsch and Groff tried to initiate a traffic stop at the Shell gas station located at the corner of Avenue H and 10th street West in Lancaster. Uccello fled from them in his black GMC Yukon. He exited the parking lot and rammed through a chain link fence.

A short pursuit ensued as Uccello traveled west on H Street then immediately south on Kingtree Avenue. Uccello continued eastbound on West Holguin Street for one block, made a U-Turn at 10th Street West and then continued back westbound on West Holguin Street. As Uccello entered back onto West Holguin, he lost control and crashed into several parked cars. Fritsch, who was also travelling westbound on West Holguin Street, collided with Uccello's vehicle.

Two additional deputy marshals arrived on scene and almost simultaneously entered onto West Holguin Street. Uccello was still seated in the driver's seat of his car while the deputies' vehicles were positioned to the east of Uccello's car, and towards the front end of his vehicle. As the deputies got out of their cars, Uccello revved his engine. Uccello was one to two car lengths away from Groff's car. Deputy Fritsch got out of his car and saw Uccello manipulating the gear shift and his vehicle moving forward. Fearing that Uccello was about to run directly into Groff, Fritsch fired several rounds at Uccello through the passenger window and windshield of Uccello's car.¹ Uccello was pronounced dead at the scene.



Deputy Marshal Fritsch on the day of the O.I.S.

¹ In Fritsch's interview he says he fired nine to ten rounds in rapid succession at Uccello through the passenger window of Uccello's car. As he was shooting, he saw Uccello flinch and curl up to his left all while continuing to manipulate the gear shift. After he stopped shooting, he saw Uccello's vehicle roll backward into a parked car. There is no further detail provided in the interview about Fritsch's precise location.

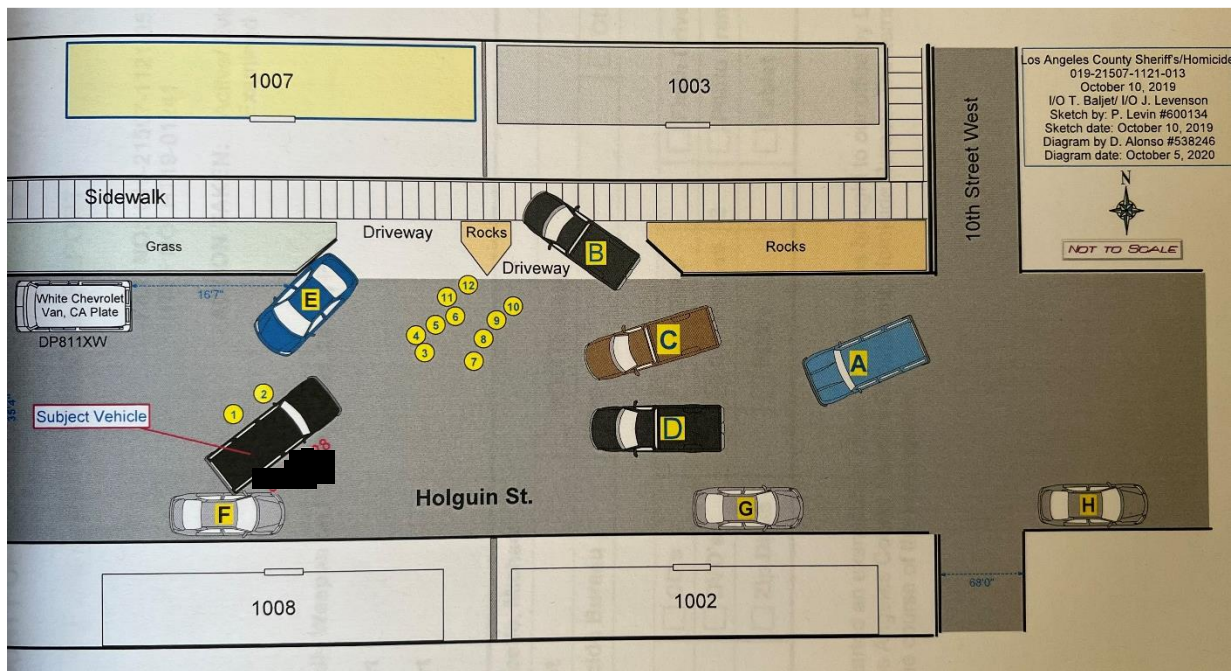


Diagram of the location. Uccello's vehicle is marked "Subject vehicle." Fritsch's vehicle is marked "D." Groff's vehicle is marked "B."



Uccello's vehicle's passenger side window.



Uccello's vehicle's windshield.

Statement of Deputy U.S. Marshal Adam Groff

Deputy Groff was interviewed on October 15, 2019 by Detectives Levenson and Baljet. Groff said that he was conducting a surveillance in Lancaster where his team believed Uccello was living. That morning, Groff had been briefed with other agents on Uccello's criminal history which included armed kidnapping. Because of his prior criminal history, the agents decided it would be best to arrest Uccello at a location outside his home.

Groff was set up at Division and Avenue G. He was driving a black Chevy Silverado pick-up truck. He was notified by another member of the surveillance team that a dark colored Chevy Suburban² was leaving Uccello's property. The driver matched Uccello's description.

Groff used his binoculars to watch the Suburban and was 90% confident that the driver was Uccello. Uccello ran a stop sign. Groff pulled out and started to follow Uccello. Uccello immediately accelerated to 80 miles per hour. Groff continued to follow until Uccello was forced to slow down because he was caught behind another vehicle. The rest of the surveillance team arrived in their vehicles at this time and joined in following Uccello.

Uccello turned into the Shell gas station located at Kingtree Avenue and 10th Street West. Groff said one of the team members advised via the radio to, "Move in." Groff entered from the Avenue H entrance. Groff said as soon as he entered the driveway, Uccello accelerated and began driving westbound through the parking lot at a high rate of speed. Groff said one of the team members advised the Suburban just tried to hit his vehicle. Groff activated his emergency lights and siren. Uccello started driving towards Groff's door. Groff believed Uccello was going to "T-bone" his vehicle, but Uccello veered at the last minute and drove through a chain link fence at the west end of the parking lot and through a dirt lot instead.

Groff pursued Uccello with his lights illuminated and siren activated. Uccello was driving at a speed of 75 to 80 m.p.h. Groff followed him east onto Holguin Street and saw him turn south on 10th Street West. A short pursuit ensued.

At one point, Uccello was driving back towards Groff, who maneuvered his vehicle out of the way. Uccello avoided a head-on collision by approximately one foot.

Groff drove back to Holguin Street and saw a traffic collision ahead of him. He tried to stop but his brakes were hot and they failed. He saw one of his team member's cars in the street and he saw Uccello's Suburban. Groff did not want to hit his team member's vehicle so he hit the front passenger side of Uccello's Suburban. When Groff's vehicle stopped, Groff began to open his door. Groff said Uccello made eye contact with him and he saw Uccello working the gear shift. He believed Uccello was trying to get his truck's gear into drive.

Groff pulled his door shut. Groff believed Uccello was going to ram his door and he turned to shield himself from the impact. He then heard the shots fired by Fritsch. When the gun shots stopped, Uccello's car rolled backwards and hit a vehicle parked on the street. Uccello put his hands out of the window to indicate surrender.

Groff and Fritsch removed Uccello from his vehicle and with assistance from other team members, handcuffed him. Uccello told them he had been shot in the chest. Deputies Rick Shaw and Raul Reyna began giving Uccello first aid.

² Uccello was driving a dark colored SUV. Groff and Fritsch both refer to it as a Suburban in their statements, but later reports refer to it as a GMC Yukon. The external identifying markers on Uccello's vehicle were removed so it is difficult to tell what type of vehicle from the outside, however the steering wheel has a GMC logo. The Chevy Suburban and GMC Yukon have nearly identical frames.



Uccello's vehicle where it came to rest.



This photo shows the rear of Uccello's vehicle and the side of Groff's vehicle.



Groff's vehicle from the back where it came to rest. Uccello's vehicle is partially visible.

Statement of Deputy U.S. Marshal Richard Fritsch

Fritsch was interviewed on October 15, 2019 by Detectives Baljet and Levenson.

As of January 2019, Fritsch was the team leader of the U.S. Marshal's Enforcement Team. On October 10, 2019, after the team met for a briefing, they attempted to locate and arrest Michael Uccello. They established a surveillance which ultimately led them to Uccello, who was driving a Suburban.

After a short pursuit Fritsch lost sight of Uccello. Fritsch approached the intersection of Holguin Street and 10th Street West. He saw Uccello's vehicle sliding sideways from northbound 10th Street onto westbound Holguin Street. Uccello's vehicle collided with a parked vehicle directly in front of Fritsch and then with the front of Fritsch's vehicle. Fritsch saw Uccello manipulating the gear-shifter and then start travelling northbound in reverse. Groff's vehicle approached from northbound 10th Street onto westbound Holguin Street and collided with Uccello's vehicle. The collision caused Uccello's vehicle to collide into another vehicle which was parked in a driveway on the north side of Holguin.

Fritsch, believing Uccello's vehicle was disabled due to the traffic collisions, exited his own vehicle, and approached Uccello. Fritsch saw Uccello attempting to manipulate the gear shifter and saw Groff beginning to exit his vehicle. Groff was directly in front of Uccello's vehicle.

Fritsch said Uccello's vehicle began to move forward, towards Groff, so he fired nine to ten rounds in rapid succession. Fritsch said that due to Uccello's actions in attempting to flee from law enforcement Fritsch believed Uccello was prepared to do whatever he had to do to get away, including ramming into Groff and his vehicle. As Fritsch fired his duty weapon, he saw Uccello

curl up and flinch to his left while continuing to manipulate the gear shift. After he stopped shooting, Uccello's vehicle rolled backward into a parked car.

Fritsch looked around and noticed that his car had rolled across the intersection and into a car parked on the east side of 10th Street West.

Statement of Sheila W.

Sheila W. was interviewed on October 10, 2019. She was inside her house when she heard a car crash outside. Her car was in her driveway on the north side of Holguin. She heard an engine revving after the crash followed by multiple gunshots fired in rapid succession. After the gunfire ceased, Sheila W. opened the front door. She heard Uccello ask, "What happened?" and saw the deputy marshals give Uccello chest compressions.

Surveillance Video Footage

Surveillance footage was recovered from a residence on North Holguin Avenue in Lancaster. The surveillance footage is taken from a vantage point behind the parked car that Uccello's vehicle slid into prior to coming to an end. The video is grainy and blurry, but a viewer can make out that the cars crashed as the deputies described. The video has no sound.

The angle from which the video was taken does not provide the same view Fritsch had at the time he fired his weapon, but it does corroborate both Fritsch and Groff's statements about the collisions.

LEGAL ANALYSIS

The people have the burden of proving beyond a reasonable doubt that a killing was not justified. *People v. Banks* (1976) 6 Cal.App.3d 379, 383-384. A killing is justified if it is committed in self-defense or the defense of another. CALCRIM No. 505.

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, 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. Conner* (1989) 490 U.S. 386, 396-397.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to

be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

Once the deputy believed deadly force was necessary, the shooting officer did not have an obligation to stop firing the weapon until the threat had ended. "If lethal force is justified, officers are taught to keep shooting until the threat is over." *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012.

If a person acted from reasonable and honest convictions, he cannot be held criminally responsible for a mistake in the actual extent of the danger, when other reasonable men would alike have been mistaken. *People v. Jackson* (1965) 233 Cal.App.2d 639. The test of whether the 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.4th 1077, 1102.

Fritsch had been briefed prior to the deputies beginning their surveillance on Uccello's prior criminal history including an armed kidnapping. Fritsch was aware that Uccello had engaged in a reckless pursuit where vehicles and property were damaged. Both Fritsch and Groff stated they saw Uccello reaching for the gear shift. Groff got back into his car to shield himself.

Uccello's actions of manipulating the gear shift and attempting to move the car after the collision are consistent with an unwillingness to surrender and a desire to escape regardless of the dangers to surrounding people. Based upon the totality of the circumstances, there is insufficient evidence presented to prove Fritsch did not act in self-defense or defense of a third party.

CONCLUSION

Given the totality of the circumstances, the available evidence is insufficient to prove beyond a reasonable doubt that Deputy Marshal Fritsch did not act in self-defense and in the defense of others at the time he fired his weapon.