

**Fatal Officer Involved Shooting of Delfon Kinney
Long Beach Police Department**

Officer Craig Hazelwood, 10793

J.S.I.D. File #19-0444



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

March 1, 2022

MEMORANDUM

TO: CHIEF ROBERT LUNA
Long Beach Police Department
400 West Broadway
Long Beach, CA 90802

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

SUBJECT: Fatal Officer Involved Shooting of Delfon Kinney
J.S.I.D. File #19-0444
L.B.P.D. File #19-59335

DATE: March 1, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 23, 2019, fatal shooting of Delfon Kinney by Long Beach Police Department (LBPd) Officer Craig Hazelwood. We find that Officer Hazelwood acted in lawful defense of others at the time he fired his weapon

The District Attorney's Command Center was notified of the shooting on October 23, 2019, at approximately 2:05 a.m. The District Attorney Response Team responded to the location. They were given a briefing of the circumstances surrounding the shooting. No walk-through of the scene was conducted because it was still being processed.

The following analysis is based upon the recorded interviews of involved parties and witnesses, surveillance video footage, body worn video (BWV) photographs and reports prepared by LBPd and submitted to this office by Detective Malcom Evans of the LBPd Homicide Bureau.

FACTUAL ANALYSIS

On October 22, 2019, at approximately 11:04 p.m., Delfon Kinney arrived at the Bottoms Up Bar located at [REDACTED] East Artesia Boulevard in Long Beach.

At 12:18 a.m., Kinney fired three shots at Sahlomon S. injuring him. Approximately one minute later, Isaac C. entered the bar area and fired three rounds at Kinney, striking Kinney in the left triceps area. Kinney then fired one shot at a female patron fleeing the bar. Isaac C. also fled the bar. Kinney urinated on the floor.

At 12:20 a.m., Eva H. and Sara S. called 9-1-1 from the bathroom of Bottoms Up Bar to report someone shooting in the bar. Simultaneously Hazelwood, who happened to be in the area responding to an unrelated call, was flagged down by Luis V., a patron fleeing the scene, who reported a man with a gun firing shots inside the bar.

At 12:22 a.m., Kinney walked behind the bar where Manuel M. was crouched underneath and fired a shot at Manuel’s head, executing him. Kinney extended his arm and fired another round in the direction of six patrons who were attempting to escape. At this time, Hazelwood arrived on scene and stood outside the front entrance. From this location, Hazelwood fired his duty weapon at Kinney, striking him in the torso. Kinney dropped to the ground. The patrons exited the location and the SWAT team entered and found Kinney and Manuel M. on the floor, both deceased.

Hazelwood’s Body Worn Video

Hazelwood’s BWV begins when he is outside of the front door of the bar. There are two adult males pointing at the bar. When the volume starts at the one-minute mark, multiple people are yelling, “He’s inside.” Hazelwood begins broadcasting, “Suspect is a male black with a Lakers jersey on, supposed to be still inside.” He stops speaking when the sound of two more gunshots being fired are heard. Hazelwood broadcasts, “Shots fired,” and moves from behind the cover of a parked car to the street, where he is completely unshielded but is directly outside the front entrance of the bar. From this position, Hazelwood has a clear and unobstructed view inside the bar. Kinney is standing behind the bar with his arm extended, gun in hand, pointing it towards a group of patrons. Hazelwood immediately fires two rounds, striking Kinney in the torso. Kinney falls to the ground behind the bar and out of sight. Hazelwood broadcasts, “Unknown if he’s down or not.”



Still image from Hazelwood's BWV prior to the OIS.



Still image from Hazelwood's BWV at the time he fired his weapon.

Surveillance Video Footage

Investigators located surveillance video footage from inside the bar that shows the actions of Kinney prior to Hazelwood's arrival. At approximately 12:18 a.m., three hours after he arrives at the bar, Kinney points his gun at Sahlomon S. and fires three rounds at him. Sahlomon S. was struck in the right arm pit area and the left side of his back. Sahlomon S. survived his injuries.

Isaac C. enters the bar and fires three shots at Kinney, striking Kinney in the left triceps area. Kinney fires another round at a female patron attempting to flee the bar, missing her. Isaac C. flees the bar. Kinney urinates on the floor and then walks inside the U-shaped bar area. From there, he fires one shot into Manuel M.'s head from point blank range.

Kinney immediately turns and fires a final round at the six patrons attempting to flee the bar. Kinney then drops to the ground.

The total time from the first gunshot Kinney fires until the last is approximately four minutes and 15 seconds. Hazelwood fires his weapon approximately five seconds after Manuel M. is murdered. This time is established by the sound of the shots being fired from Hazelwood's BWV.



Still image from the surveillance footage showing Kinney as he approaches Manuel M. who is crouching under the bar.



Still image from the surveillance footage depicting a different view of Kinney just before shooting Manuel M.



Still image from the surveillance video depicting Kinney pointing the gun at the patrons after shooting Manuel M.



Still image from the surveillance video showing Kinney on the ground with a gun in his right hand.

A Taurus .38 revolver was recovered from Kinney's right hand.

On October 25, 2019, Dr. Abubakr Marzouk, conducted an autopsy on Kinney. Dr. Marzouk determined the cause of death was a gunshot wound to the chest. Kinney sustained two gunshot wounds. The first wound was to his left chest and the second was a non-fatal wound to his left arm. During the examination, a remote gunshot wound was noted to the left arm and chest. A remote projectile was recovered from the right upper chest. No other injuries were noted. Toxicology testing was positive for alcohol and marijuana.

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.

In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness 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 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.

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.

The evidence presented shows Hazelwood was outside of the bar behind a car when he heard two shots fired in succession. Hazelwood had been told by Luis V. that there was an active shooter inside the bar. Hazelwood moved into the street where he had an unobstructed visual of Kinney

behind the bar. Kinney had a gun in his hand with his arm extended towards patrons. In fear for the lives of those inside the bar, Hazelwood fired his weapon twice, striking Kinney.

CONCLUSION

The available evidence shows that Officer Hazelwood acted in self-defense and in the defense of others at the time he fired his weapon.