

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 Brendon Glenn
J.S.I.D. File #15-0222
L.A.P.D. File #F038-15

DATE: March 8, 2018

The Justice System Integrity Division (JSID) of the Los Angeles County District Attorney's Office (LADA) has completed its review of the May 5, 2015, fatal shooting of Brendon Glenn by Los Angeles Police Department (LAPD) Officer Clifford Proctor. We have concluded that there is insufficient evidence to prove beyond a reasonable doubt that Proctor did not act lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 1:20 a.m., on May 6, 2015. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, firearm analysis reports, fingerprint reports, forensic analysis reports, the autopsy report, crime scene diagrams and sketches, photographic evidence, body worn video evidence, surveillance video and witness statements submitted to this office by LAPD Lieutenant Steven Lurie and Detective Tim Brausam as well as a use of force report provided by an expert retained by the LADA.¹ The compelled statements of Officer Proctor were considered as part of this analysis.

FACTUAL ANALYSIS

Introduction

On Tuesday, May 5, 2015, at 11:20 p.m., LAPD Communications Division (CD) received a 9-1-1 call for service from Christi Caden, a bartender at the Bank of Venice restaurant, located at 80 Windward Avenue.² Caden reported that a man, later identified as Brendon Glenn, was being "loud and obnoxious" inside the bar of the establishment and was refusing to leave the premises. Caden

¹ The identities of all civilian witnesses will not appear in the public version of this document.

² The Bank of Venice is a restaurant with a bar.

further reported that Glenn had a black dog with him. Caden believed the dog was a Labrador/Pit Bull mix. Caden described Glenn as being “a little aggressive.” Towards the end of the call, Caden reported that one of the bartenders had “just kicked him out, but he is still lingering around the bar.”



Location of Incident.

At 11:24 p.m., CD dispatched a radio call of a “415 Man,” to Pacific Patrol Division Uniformed Police Officers Clifford Proctor and Jonathan Kawahara via their Mobile Digital Computer.³ Within the comments of the call was a description of Glenn as a “male black transient wearing a black shirt and gray sweatpants,” as well as a description of his dog. The narrative advised that Glenn was harassing customers and refusing to leave. The comments also stated that Glenn was in the company of a female transient and no weapons had been observed by the caller.

Kawahara and Proctor arrived at the location at 11:27 p.m. Glenn was with two unknown males and an unknown female, blocking pedestrian traffic in front of a closed business, located at 66 Woodward Avenue, west of the Bank of Venice.⁴ Proctor was driving a marked black and white patrol car, and stopped the vehicle facing eastbound on the street in front of the location. As the officers exited the vehicle and approached the group, Proctor advised them that they were blocking the sidewalk and had to leave. Kawahara was east of Proctor at this point and activated his personal Body Worn Video (BWV) which was affixed to his Sam Browne belt.

The two unknown men immediately began to gather their belongings, which were lying on the sidewalk, and left the location. The unknown woman, later identified by local residents as “Mama,” remained seated.⁵ Glenn’s unleashed dog lunged at one of the men on the sidewalk and began

³ “415” refers to a section of the California Penal Code which prohibits unlawfully fighting or challenging someone to fight in a public place, maliciously and willfully disturbing another person by loud and unreasonable noise or using offensive words in a public place which are inherently likely to provoke an immediate and violent reaction.

⁴ The two unknown males were never identified by LAPD.

⁵ “Mama” was still at the location when additional units arrived after the officer involved shooting. Sergeant Gregory Probst met with her following the incident. She refused to speak to him. Detective Kenneth Sanchez also

barking. Glenn was standing when the officers approached, and secured the dog with a leash. Glenn yelled, “Back it up! Back it up!” at the dog. After leashing the dog, Glenn began walking toward Proctor with his dog, stepping off the sidewalk northbound into the street. As Glenn and the dog got within a few feet of Proctor, Proctor advised Glenn, “Hey, don’t bring your fucking dog here. Don’t come over here with your dog or I will shoot your dog. I don’t need to talk to you. Just grab your stuff and go.”

Glenn walked back to “Mama,” dropped the leash, and told her multiple times over her objection to hold on to his dog. Mama relented and took control of the dog. Glenn walked back towards Proctor and yelled, “Don’t be threatening my dog!” Glenn was exhibiting obvious signs of profound intoxication, including slurred speech and staggering. Kawahara ordered Glenn to back up. Proctor told Glenn, “Don’t walk up on me. Just stay over there.”

Glenn stepped into the street and yelled, “What’s up boy?” at Proctor, then raised his hands in the air and yelled, “Hands up nigger!” Proctor responded, “Just get your stuff and go.” Glenn dropped his hands and momentarily lowered his voice to a conversational level and said, “Don’t do that right now. We’re in Venice. You really want to move us?” The officers explained to him why he had to leave. Glenn then shouted at Kawahara, “Who is paying you?” Glenn reached with his left hand into his left side pants pocket and asked Kawahara, “Do you want a couple dollars?” Kawahara responded that he did not want Glenn’s money and that no one paid him. Glenn became visibly irate and yelled, “So then what the fuck is the matter now?”

Proctor immediately told Glenn, “Just walk away.” Glenn turned toward Proctor and yelled, “What’s the matter now nigger?” Proctor began to retrieve his hand held radio. As he did so, Glenn said, “Don’t do it. Don’t pull for that. Don’t do it bro.” Glenn returned to the sidewalk and walked westbound toward the Townhouse Bar, located at 80 Windward Avenue. “Mama” remained seated on the sidewalk with the dog.

Proctor and Kawahara did not elect to arrest Glenn at that point since he appeared to be complying with their commands to leave the location. Kawahara turned off his BWV as Glenn walked west and began to speak to “Mama,” while continuing to monitor Glenn’s movements.⁶

At 11:30 p.m., Glenn approached an unidentified man and woman who had just exited the Townhouse Bar. As the man spoke with Glenn, the woman appeared to distance herself from them. The men appeared to have an argument, then hugged. Glenn proceeded to the Townhouse Bar, approximately 50 feet from where Proctor and Kawahara had spoken to him. Glenn loitered outside the establishment and began yelling racial epithets and other comments at patrons entering the establishment. Proctor and Kawahara walked towards Glenn’s location. Proctor and Kawahara discussed calling for “back-up” as they approached the Townhouse Bar. Kawahara, the senior

attempted to speak to “Mama” while the crime scene was active. She refused to discuss the incident. A business card was provided to her in case she later decided to speak about the incident. To date, there has been no response and subsequent attempts to locate “Mama” have been unsuccessful. Her true name was never determined. ⁶ One of two surveillance cameras affixed to the Townhouse Bar captured the initial contact at 66 Windward Avenue as well as the officer involved shooting. The camera was not equipped with sound capability.

officer, advised Proctor to ask for an “additional unit” instead.⁷ Kawahara was aware that additional units were located nearby, having just handled another incident in the vicinity.

At 11:32 p.m., the unidentified man and woman re-entered the Townhouse Bar. Glenn approached the front door where Igor Petrovic, a bouncer, was standing. Petrovic, having observed Glenn’s earlier contact with the officers as well as his interaction with bar patrons, told Glenn to, “Back off.” Security Guard Dimario Thomas approached Glenn. Thomas recognized Glenn as a local panhandler from past contacts. Thomas immediately smelled alcohol on Glenn. Not wanting Glenn to bother any of the Townhouse’s patrons, Thomas told Glenn, “My man, you gotta go down the street brother. You know. You gotta go down the street.” Glenn refused to comply and walked backwards toward the exterior wall of the bar, adjacent to the front door. Thomas extended his right arm and placed his right hand on Glenn’s flank, below his armpit, in an attempt to get him away from the front door. With Thomas’ right hand on Glenn’s left flank, Glenn clamped down with his left arm on Thomas’ wrist. Meanwhile, Proctor, who was behind Kawahara, utilized his hand-held radio and requested an additional unit respond for a “415 man.”⁸

Thomas stepped toward Glenn and pushed Glenn down onto the ground. Glenn began to stand as Kawahara reached the sidewalk where Glenn and Thomas were having an altercation. As Glenn stood up, Thomas pushed Glenn away from the area near the front door. Glenn turned in Thomas’ direction, and began approaching him.

Kawahara intervened and attempted to arrest Glenn. Kawahara took a position to Glenn’s right (east) side, and grasped Glenn’s right wrist with his right hand and Glenn’s right bicep with his left hand. Proctor took a position in front (north) of Glenn, while Kawahara held Glenn’s right arm and instructed Glenn to, “Turn around.” Glenn immediately tensed up and extended his right arm toward the ground. When Glenn failed to turn around as instructed by Kawahara, Proctor told him, “He told you to turn around, so turn around.” Proctor then leaned in and used his left hand in an attempt to grab the right side of Glenn’s shirt collar. He was unable to grab Glenn’s shirt the first time and reached in a second time, grabbing hold of the shirt. A struggle ensued. Proctor, with his left hand still on the front of Glenn’s shirt, grabbed Glenn by the back of the head with his right hand and forced Glenn to the ground.

Glenn landed on his left side with his head facing east. Proctor immediately rolled Glenn onto his stomach, then placed his right knee on the left side of Glenn’s back. Kawahara, who maintained a hold of Glenn’s right arm when he went to the ground, placed his left knee on the right side of Glenn’s lower back. Kawahara ordered Glenn to, “Put your hand behind your back.” Glenn did not comply and resisted Kawahara’s attempts to get his right hand behind his back.

⁷ When an officer asks for “back-up,” responding units are authorized to respond “Code Three,” utilizing lights and sirens to get to the location. A request for an “additional unit” does not allow for lights and sirens, and conveys a less urgent need for a rapid response.

⁸ Twenty seconds after Proctor made the request, Pacific Patrol Division Watch Commander Sergeant Patricia Suarez upgraded the request to a “back-up,” due to the nature of the call, the location and her personal knowledge of the area.

Glenn placed both his hands on the ground and began to push himself up off the ground with both officers on his back. As both officers attempted to subdue him, Glenn brought his legs up under his body. With his knees on the ground, Glenn was able to push himself further up.

Proctor's knee was forced off of Glenn's back. Proctor stood up, stepped back and placed his hand on his holstered service weapon. Feeling as though he was losing his balance, Kawahara removed his knee from Glenn's back and used his body weight in an effort to get Glenn back down to the ground. Kawahara continued to struggle with Glenn, attempting to control his right arm. As Glenn rose to his feet, Proctor un-holstered his service weapon and held it down to his right, with the muzzle facing the ground. Kawahara placed his chest over Glenn's back, as Glenn continued to rise to his feet. Kawahara's right hand held Glenn's right upper arm area, as Glenn wrapped his right arm around Kawahara's right upper thigh.

Proctor raised his weapon to a position along his torso and fired one round in a downward direction at Glenn's lower left rear flank. Kawahara released his hold on Glenn as Proctor fired a second round in a downward direction at Glenn's lower rear flank area.⁹ Glenn fell backward on the sidewalk with his head at the curb, as Kawahara moved in a southeast direction along the sidewalk. Proctor holstered his weapon and took control of Glenn's left hand as he knelt down beside him. Kawahara broadcast, "14A12 shots fired, officer needs help. 80 Windward," and requested a Rescue Ambulance (RA) for, "a male, 25 years, conscious and breathing."

Proctor approached Kawahara. Once Kawahara advised him he had not suffered any injury, Proctor returned to Glenn. Proctor rendered aid to Glenn and applied chest compressions until he was relieved by additional officers who responded to the location. Kawahara handcuffed Glenn's hands in front of his body as additional units arrived on scene.

Sergeant Gregory Probst arrived on scene and identified Proctor and Kawahara as the involved officers. Probst established a crime scene and coordinated responding units as he monitored both Kawahara and Proctor to ensure they did not speak to anyone, or each other, regarding the incident.

At 11:41 p.m., Los Angeles Fire Department (LAFD) personnel arrived at the scene and treated Glenn for two gunshot wounds. Glenn was transported by the RA to University of California, Los Angeles (UCLA) Medical Center in Westwood. Glenn did not regain consciousness during the transport and made no statements to LAFD or LAPD personnel. On May 6, 2015, at 12:16 a.m., Glenn was pronounced dead by Doctor Catherine Lewis.

Body Worn Video

Officer Kawahara activated his BWV as he and Proctor initially approached Glenn near 66 Windward Avenue. The video begins without sound as officers are approaching a group of individuals on the sidewalk. A woman is sitting on the ground and Glenn and another man are standing to the right of her. A third man is between Glenn and the camera in a crouched position, picking up belongings.

⁹ Based upon the muzzle flashes depicted in surveillance video of the incident, there was a delay of one and one-tenth of a second between the first and second shots.

Sound starts on the BWV approximately ten seconds into the recording. Glenn says something unintelligible which sounds like, “Get some love.” The two unidentified men are gathering their belongings. Glenn’s dog can be seen lunging and barking at the man who had previously been in a crouched position, who says something to the effect of, “I’m out of here man.” Glenn moves toward the dog yelling, “Back it up! Back it up!” Glenn approaches the dog, places his hands near the dog’s neck and says, “Sit.”



Still photo from BWV depicting Glenn's dog lunging and barking.

Video with audio.

[Note: If unable to play embedded video, click here.](#)

Glenn walks towards the officers with the dog on a leash. Proctor says, “Hey, don’t bring your fucking dog here. Don’t come over here with your dog or I will shoot your dog. All right? I don’t need to talk to you. Just grab your stuff and go. Just go grab your stuff and go.” Glenn retreats towards the woman and drops the leash. An unidentified, possibly female, voice says, “Don’t put that dog on me.” Glenn says something to the effect of, “Hold him. Hold him.” Glenn says, “Hold him” a third time, more loudly. Proctor says, “Yo. Grab your stuff and go. We don’t need the dog.”

Glenn then walks quickly off the sidewalk towards the officers saying, “Don’t be threatening my dog. Hey, what’s up boy?” Proctor responds, “Don’t walk up on me, bro. Don’t walk up on me. Just stay over there.”



Still photo from BWV depicting Glenn advancing toward the officers.

Video with audio.

[Note: If unable to play embedded video, click here.](#)

Glenn stops advancing, puts both of his arms up in the air and yells, “Hands up nigger!” As he does so, his shorts slip down, revealing sweatpants underneath. Proctor tells Glenn, “Just grab your stuff and go.” Glenn says, “Don’t do that right now. We’re in Venice. You really want to move us?” Kawahara says, “Well yeah, you’re blocking the sidewalk, you and the lady right there.” Glenn interrupts, yelling, “Oh! Oh!” Then asks, “So who’s paying you? Who’s paying you? Do you want a couple dollars?” while advancing towards Kawahara.¹⁰ Kawahara asks, “Are you ready to go?” Glenn replies, “Do you want a couple dollars?” as he reaches into his right, and then left, pant pockets and moves his hand around. Kawahara again asks, “Are you ready to go?” Glenn again says, “Do you want a couple dollars?” Kawahara says, “No, I don’t want your money.” Glenn says “So then who’s paying you?” Kawahara says, “No one is paying me.” Glenn then yells, “So then what the fuck’s the matter right now?” Proctor says, “Just walk away bro.” Glenn continues yelling, “What’s the matter right now nigger?” as he turns in Proctor’s direction. Proctor again says, “Walk away bro.” Glenn says, “Huh? We’re in the streets!” In the reflection visible on a white car to Glenn’s left, Proctor’s shadow can be seen backing away from Glenn and reaching for his radio. Glenn says, “Don’t do it, don’t pull for that. Don’t do it bro. C’mon bro. You ain’t about it.”

¹⁰ Throughout these interactions, the woman in the background can be heard yelling commands to the dog, such as, “Sit!” and “Stay!”



Still photo from BWV depicting Glenn with his arms in the air yelling, "Hands up nigger!"

Video with audio.

[Note: If unable to play embedded video, click here.](#)

Glenn begins to retreat, visibly stumbling backwards and turning as Kawahara says, "Let's go then." Glenn leans against a post to keep himself from falling, then turns and comes back towards Kawahara saying, "Really? All of a sudden because I turn my back, you want to talk? Like you got something? C'mon you ain't about that either." Glenn turns his back on the officers and walks to where the woman and dog are on the sidewalk. He turns towards the officers and yells, "Oh! Look, hey!" before pointing in the officers' direction and walking away westbound on Windward Avenue. After Glenn is out of view of the camera, he is heard yelling, "You better got him Ma. You got him Ma," as the woman is ordering the dog to sit. Kawahara says something including the words "drunk in public" before the recording stops.¹¹



Still photo from BWV depicting Glenn stumbling.

¹¹ The entire recording is two minutes and twenty-seven seconds long.



Still photo from BWV depicting Glenn using a post to brace himself from falling.

Surveillance Videos¹²

Bank of Venice:

Video footage from Bank of Venice was recovered, and depicts Glenn outside the establishment with his dog, talking to a man. Several customers walk by and seem to be avoiding Glenn as he attempts to make contact with them. The woman identified as “Mama” is also seen outside the bar with a white Styrofoam cup, apparently panhandling. After a few minutes, Glenn follows the man he was speaking to, inside the bar. A second view from the footage shows Glenn sitting at the bar with the man drinking a beverage. After approximately 13 minutes, the man leaves. Approximately six minutes later, Glenn gets up and walks away from the bar and talks to a blonde woman. A few minutes later, he resumes his seat at the bar and appears to drink another beverage. Glenn appears to be intoxicated, laying his head down on the bar, causing his hat to fall off. Glenn stands up, walks around, sits back down and makes contact with multiple patrons and employees in the bar. Glenn appears to drink a third beverage while standing.

Approximately 30 minutes after entering the bar, Glenn gets into what appears to be an argument with a female employee. After they argue and she repeatedly motions for him to exit the location, she picks up his dog’s leash, which he had let fall to the ground, and she motions him to exit the establishment, which he does. Glenn appears to be extremely intoxicated.¹³

¹² Surveillance footage was also recovered from The Whisper, located at 69 Windward Avenue. The camera was pointed sharply towards the ground, capturing only the north sidewalk area on Windward Avenue. Neither Glenn nor the officers are depicted on the video.

¹³ Hadi Nassar was inside the Bank of Venice. When interviewed, he advised FID detectives he had seen Glenn drinking in the bar and Glenn seemed “very drunk.”



Still photo from surveillance video depicting Glenn in an argument with employee.



Still photo from surveillance video depicting Glenn with his hands on his head.

Townhouse Bar:

Surveillance footage from two cameras was recovered from the Townhouse Bar. Both cameras were affixed to the north-side exterior of the location. One camera was facing east, and the other was facing west.



East facing camera.



West facing camera.

East Facing Camera:

The east facing camera captures a distant view of the initial contact between Glenn and the officers (TS 23:28:00), Glenn walking westbound towards the Townhouse Bar, and continues through the shooting and police response afterward.¹⁴

At TS 23:30:00, Glenn is seen approaching an unidentified man and woman who had exited the Townhouse Bar. Glenn converses with the man and the woman distances herself from the two of them.

At TS 23:30:20, Glenn and the man appear to be arguing, and the man uses his hand to push away from Glenn multiple times. Glenn strikes the man on his left cheek using his right hand (TS 23:30:36), and the man again pushes Glenn away. Glenn then approaches the woman, who moves

¹⁴ Based upon a comparison done by LAPD between the surveillance footage (which depicts Proctor's broadcast for an additional unit), and the time the broadcast was received by CD, there is an approximate ten second delay between the two, with the surveillance video being ahead of the CD timestamp. Although the CD timestamp is correct, this memorandum utilizes the surveillance time stamps (TS) when referencing portions of the footage unless otherwise noted, because they correspond to the actual surveillance video.

to the opposite side of the man. Glenn attempts to hug the man (who pats his back and appears to be saying something in his ear), before walking back toward the officers (TS 23:30:48). Before getting to the officers' location, Glenn turns to address the man, stumbling as he does so (TS 23:30:55). The man walks away from Glenn and re-enters the bar. Glenn follows the man and appears to be yelling and gesticulating towards the man in an angry fashion, then remains outside the bar yelling. Glenn walks closer to the bar and Petrovic appears to say something to him (TS 23:32:26).



Still photo from surveillance video depicting Glenn and a man who appear to be arguing.



Still photo from surveillance video depicting Glenn slapping the man on his left cheek.

*Video only.
[Note: If unable to play embedded video, click here.](#)*



Still photo from surveillance video depicting Glenn stumbling.



Still photo from surveillance video depicting Glenn arguing with Thomas outside of the bar.

Video only.

[Note: If unable to play embedded video, click here.](#)

At TS 23:32:30, Thomas approaches Glenn. They appear to have a conversation, and Glenn appears to be angry. Kawahara is seen approaching the bar through the parking area, with Proctor behind him. Thomas reaches out with his right arm to physically direct Glenn away from the entrance to the bar. Glenn traps Thomas' arm under his own left armpit and backs against the exterior wall of the bar (TS 23:32:38). Proctor can be seen using his radio to request an additional unit (TS 23:32:40).



Still photo from surveillance video depicting Glenn's arm wrapped around Thomas' arm.

Thomas pushes Glenn away (TS 23:32:41), causing Glenn to fall to the pavement (TS 23:32:45). Glenn quickly gets back up to his feet and resumes physically struggling with Thomas (TS 23:32:50). Kawahara can be seen stepping onto the sidewalk as Glenn is standing up. Thomas again pushes Glenn away from the bar entrance (TS 23:32:51). Glenn turns toward Thomas and begins to approach him when Kawahara intervenes (TS 23:32:55).

As Kawahara steps onto the sidewalk, he appears to be speaking to Glenn. Kawahara takes a position to Glenn's right (east) side, and initially motions with his right hand towards Glenn, then uses both hands to physically grab Glenn (TS 23:32:55). Proctor motions Thomas away using his right arm, then stands in front (north) of Glenn, and appears to be speaking to Glenn. Glenn appears to be resisting Kawahara, turning his back on him and pulling away. Proctor leans forward, reaches with his right hand to grab Glenn and is unable to. He then places his left hand on the front right side of Glenn's shirt and reaches for Glenn's left side with his right hand (TS 23:33:05). His right hand lands at the back of Glenn's neck/head area. Glenn reaches his left arm under Proctor's right arm and grabs the back of Proctor's shoulder. Proctor swivels counter-clockwise and steps back to pull Glenn toward him. Glenn's left hand drops off of Proctor's shoulder and, in a continuous sweeping motion, passes very near or touches Proctor's right upper thigh/hip area, immediately in front of and below Proctor's holstered service weapon (TS 23:33:09), as the officers pull Glenn to the ground.



Still photo from surveillance video depicting Proctor reaching for Glenn's left side with his right hand.



Still photo from surveillance video depicting Glenn's left arm around Proctor's right shoulder.



Close up of Glenn's arm wrapped around Proctor's shoulder.



Still photo from surveillance video depicting Glenn's left hand in close proximity to Proctor's service weapon.



Close up from surveillance video depicting Glenn's left hand in close proximity to Proctor's service weapon.

Glenn lands on his left side facing the bar (TS 23:33:10). Proctor immediately rolls Glenn onto his stomach and places his right knee on the left side of Glenn's back. The view of Kawahara is somewhat obscured by Thomas' head and body, but Kawahara appears to be placing his left knee on Glenn's back. The officers appear to be struggling to keep Glenn down for approximately seven seconds, before Glenn brings his legs up under his body and begins pushing up. Proctor appears to be thrown off of Glenn's back. Glenn's left shoe comes off his foot and remains on the ground as Glenn gets both knees under himself, and Proctor begins to stand more erect with his right hand hovering over his service holster on his right hip (TS 23:33:19). Proctor's left hand is still gripping Glenn's sweatshirt. Glenn's right leg then extends to a straight position backward with his toe on the ground. Glenn then pulls his right leg to the front and begins to stand (TS 23:33:20).



Still photo from surveillance video depicting Proctor's right hand over his service holster.

Video only.
[Note: If unable to play embedded video, click here.](#)



Still photo from surveillance video depicting Glenn getting up from the ground.

Proctor steps back and places his right hand on his holstered service weapon. Kawahara appears to be hovering over Glenn, as Glenn is rising and Glenn's right hand is reaching back toward Kawahara's leg. Proctor un-holsters his service weapon and holds it down to his right with the

muzzle facing the ground (TS 23:33:21). Glenn's right arm is wrapped around Kawahara's right thigh, as he continues to rise.¹⁵



Still photo from surveillance video depicting Proctor holding his service weapon pointed downward.



Close-up from surveillance video depicting Proctor holding his service weapon pointed downward.

¹⁵ Glenn's left hand is obscured by his own body, Kawahara's body and Thomas.

Proctor raises his weapon along his torso and fires one round in a downward direction at Glenn's lower left rear flank (TS 23:33:22).¹⁶ Approximately one and one-tenth of a second later, Glenn begins falling backwards as Proctor leans back, drops his left hand from Glenn's shirt and fires a second round in a downward direction at Glenn's lower rear flank area (TS 23:33:23).¹⁷ Simultaneously, Kawahara breaks contact with Glenn and staggers backward toward the building wall. Glenn collapses straight-legged to his buttocks, then his upper body falls onto the sidewalk where he lays in a supine position.



Still photo from surveillance video depicting Proctor firing first round at Glenn's lower left flank.

¹⁶ This is approximately four seconds after Glenn begins rising to his feet and approximately one second after his right hand can be seen on the video grabbing Kawahara's right thigh/hip area. Approximately 27 seconds elapse from the moment Kawahara first touches Glenn to when Proctor fires his first round.

¹⁷ The surveillance footage was examined by Technical Investigation Division (TID) Police Surveillance Specialist Shawn Khacherian, who determined that the video disc played at a rate of 20 frames per second, and that 22 frames had elapsed from the first muzzle flash to the second muzzle flash.



Still photo from surveillance video depicting Glenn's arm wrapped around Kawahara's leg.

Video only.
[Note: If unable to play embedded video, click here.](#)



Still photo from surveillance video depicting Proctor firing a second round at Glenn's lower rear flank area.

Proctor holsters his weapon and takes control of Glenn's left hand as he kneels down beside him (TS 23:33:28). Proctor then looks around to locate Kawahara near the building wall. Kawahara immediately checks his service weapon, holstered on his left hip, as he backs away, then uses a tactical microphone clipped to the front/collar of his body armor to make a radio broadcast (TS

23:33:50).¹⁸ Proctor draws his portable radio, raises it to his mouth, then re-holsters it.¹⁹ Proctor walks to Kawahara, then walks back to Glenn and begins administering chest compressions for approximately one minute. Kawahara approaches Proctor, looks down and sees the back-up weapon on his left ankle is exposed, then uses his hand to pull his pant leg down to cover it.



Still photo from surveillance video depicting Kawahara checking his service weapon.

Video only.

[Note: If unable to play embedded video, click here.](#)

¹⁸ The substance of the radio call to CD was, "14A12, Shots fired. Officer needs help. Windward. 80 Windward. We need an RA for a male, for a male, 25 years, conscious and breathing." Kawahara sounds out of breath and takes several pauses during the transmission. The CD timestamp is 23:33:40.

¹⁹ No record of any transmission from Proctor at that time was located.



Still photo from surveillance video depicting Kawahara's back up weapon exposed.



Close up of Kawahara's back-up weapon exposed.



Still photo from surveillance video depicting Proctor administering CPR to Glenn.

Video only.

[Note: If unable to play embedded video, click here.](#)

Additional officers begin arriving at the location. After conferring with one of the officers, Kawahara handcuffs Glenn in his supine position. Approximately one minute after additional officers arrive, Proctor walks toward the Townhouse Bar and enters. Proctor emerges seven seconds later with Thomas. 57 seconds after exiting the bar, Proctor takes another officer aside and walks out of camera view.²⁰

The video continues as additional officers and supervisors arrive and LAFD emergency personnel arrive at the scene, administer medical aid to Glenn, and then prepare to transport him (TS 23:41:00).

²⁰ This officer was identified as Tae Kim. When interviewed, Kim indicated that he did not discuss the circumstances of the shooting with Proctor and merely attempted to provide comfort and support to him. Kim described Proctor as “kind of in distress,” and concerned about Glenn’s condition.

West Facing Camera:

The west facing camera is largely obscured by a large sign and is very grainy. Shadows of movement can be seen, as well as parts of the officers' bodies when they are clear of the sign. Glenn's face is partially visible under the sign during a portion of the video. One of the shadowy objects that appears under the sign looks like it could be an arm or a leg. There is a light spot on it which looks similar to a watch.²¹ The object appears to be perpendicular to the sign, then moves as Glenn falls to the ground. It is not possible to determine whether the object is Glenn's left hand, or one of Glenn's shoes/legs.²² At the end of the video, the object seems to move in a manner consistent with it being Glenn's leg as he is falling to the ground, indicating the object may be a reflection on Glenn's shoe. Glenn was wearing one white leather Etnies sneaker during the altercation, the other one having fallen off as he pulled his knees under his body. The leather from the sneakers can be seen as bright and reflective in the BWV from earlier in the evening. Efforts by LAPD to enhance this video were unsuccessful.



Still from surveillance video depicting what appears to be Glenn's hand/arm or shoe/leg on the ground.

Video only.

[Note: If unable to play embedded video, click here.](#)

²¹ No watch was recovered from the crime scene, Glenn's personal effects or the coroner's booked property.

²² The LAPD FID administrative report mentions this video in a note, summarily stating, "the west facing camera (not shown) depicted Glenn's left hand planted on the sidewalk." A footnote to this note states, "Images from the west facing camera were of such poor quality (very grainy) that they were not used in this report."



Still from surveillance video depicting movement consistent with object being Glenn's shoe/leg.



Still from surveillance video depicting the final position of Glenn's shoe/leg.



Glenn's shoes.

Statements of Clifford Proctor²³

Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in administrative discipline including termination from public service.²⁴ The LAPD orders officers who are involved in an officer involved shooting incident to submit to questioning concerning the performance of their official duties, and ordered Proctor to do so in the present case. Officer Proctor was interviewed two times regarding his actions during this officer involved shooting by detectives from FID.

Proctor, like any individual, possesses a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against himself.²⁵ Because the LAPD ordered him to answer questions which might expose him to criminal liability, the LAPD compelled Proctor to participate in the two interviews. The effect of this legal compulsion is that Proctor's statements cannot be used against him in a criminal proceeding, nor can any material derived from the compelled interviews be used against him.²⁶ Further, because these compelled statements are part of Proctor's police personnel file, the statements are confidential. The District Attorney's Office is granted access to these statements, but may not disclose them absent

²³ Proctor was interviewed by LAPD FID detectives on May 7, 2015 and December 3, 2015.

²⁴ *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285.

²⁵ *Uniformed Sanitation v. City of New York*, *supra*, at 284-285.

²⁶ *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 715.

an evidentiary showing and court order.²⁷ Although Proctor's statements were considered as part of the analysis as to the appropriateness of his use of deadly force, the law requires that Proctor's statements be redacted from the public version of this document.

First Interview:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁷ California Penal Code section 832.7.

²⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴² LAPD did not take any photographs of the holster intact, or of Proctor with the Sam Browne belt (and holster) on him. The only photographs taken show the keepers fully unsnapped from the holster. No report prepared by LAPD has any comment regarding the condition of the holster at the time it was recovered from Proctor.



Proctor's service weapon and holster.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴⁷“Point shooting,” -- also known as target or threat focused shooting, instinctive aiming, instinctive firing, and instinctive shooting -- is a method of shooting a firearm quickly and accurately that does not rely on the use of sights in close quarters, life-threatening situations where there is the greatest chance of being killed. Close-quarters fighting makes it difficult to apply proper marksmanship techniques, which is why point shooting advocates a less sighting-based style of shooting.

⁴⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁵³ The video depicts Proctor grabbing Glenn's head or hair after he is unable to maintain his hold on Glenn's shirt.

[REDACTED]

[REDACTED]

Second Interview:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁵⁸ Sergeant Stephen McClean, one of the first supervisors to arrive at the location after the shooting, was interviewed by LAPD FID detectives. McClean indicated that Proctor identified Thomas to him as a witness by pointing in his direction and saying, "Over there, the security guard." Sergeant Gregory Probst, the first supervisor to arrive at the scene, was also interviewed by LAPD FID detectives. He sent officers into the bar to go get a "security guard" he had been advised was a witness. Probst did not recall who told him the security guard was involved.

⁵⁹ [REDACTED]

Statements of Jonathan Kawahara⁶⁰

First Interview:

Jonathan Kawahara was employed with the LAPD on the date of the incident as a Patrol Officer II, and had worked for LAPD as a police officer for nine years and six months. Kawahara is 5'11" and weighed approximately 180 pounds on the date of the incident. He was working patrol in full uniform, in a marked police vehicle, with his partner, Clifford Proctor. Kawahara was the passenger and Proctor drove the vehicle. He had been partnered with Proctor for one deployment period and had worked in the Venice area for one deployment period.⁶¹

Kawahara was in possession of an ASP baton, Oleoresin Capsicum (OC) spray, a flashlight, handcuffs and a hobble device. Kawahara was wearing body armor and a radio. The microphone for the radio was clipped to the top of his vest, on the right side. Kawahara's service weapon was a Glock model 22 .40 caliber handgun, which he carried on his Sam Browne holster on his left side, as he is left-handed. He also had a back-up weapon holstered on his left ankle.⁶² Kawahara carried a Taser on his Sam Browne, on his right side. Kawahara wore a BWV recorder which recorded two minutes and 47 seconds of the initial encounter he and Proctor had with Glenn.⁶³

Kawahara was working patrol with Proctor when he received a radio call for a 415 man at 80 Windward Avenue, just west of Pacific Avenue. The location of the call was the Bank of Venice. As Proctor drove them to the location, Kawahara read the comments of the call to Proctor. Kawahara advised Proctor of the suspect description, that he was possibly with a female and that they were harassing customers.

As they arrived at 80 Windward Avenue, Kawahara observed a group of approximately four individuals sitting on the sidewalk blocking pedestrian traffic. Kawahara exited the police vehicle. Proctor took contact.⁶⁴ Kawahara took cover.⁶⁵ They had not discussed who would take what role prior to exiting the vehicle. As with previous calls they responded to, Kawahara and Proctor generally determined who would be lead based on who spoke to a suspect first. Kawahara heard Proctor tell the individuals to leave the location as they were blocking the area. Kawahara saw

⁶⁰ Kawahara was interviewed by LAPD FID Detectives on May 6, 2015 and December 3, 2015.

⁶¹ A "deployment period" is four weeks long. This particular deployment period had started approximately two weeks prior to the incident. Kawahara was asked in a subsequent interview how many days he had actually worked with Proctor and could not recall.

⁶² Kawahara advised detectives that when he first began working with Proctor they each revealed where their backup weapons were, in a discussion regarding how they would handle specific radio calls and what weapons each were trained on.

⁶³ Kawahara did not record any portion of the altercation in front of the Townhouse Bar. He told detectives that he turned the camera off after Glenn walked away from their initial location, believing that since Glenn left voluntarily, there was no longer a need to record. When Kawahara began walking towards the bar he did not think to turn his camera on and once Glenn started fighting with Thomas, Kawahara wanted to get him into custody as soon as possible and "did not think to turn on my – my camera." Kawahara followed all LAPD protocols with respect to notifying his supervisors whenever he recorded any contact with suspects.

⁶⁴ "Taking contact" refers to one officer taking the lead to communicate with a suspect.

⁶⁵ "Taking cover" refers to an officer providing back-up to a partner who is taking the lead to communicate with a suspect.

Glenn following a woman westbound on the sidewalk.⁶⁶ Glenn said something akin to, “Nobody wants you anyways” to the woman, causing Kawahara to believe perhaps he was trying to “hit on the girl.” Glenn then returned to the group. Kawahara saw there was also a black dog on a leash at the location.

When Proctor initially told the group to leave, two of the individuals got up and left the location. Glenn stood there yelling. A woman was sitting on the ground with the dog. Kawahara did not believe the woman was holding the dog’s leash. The dog started walking towards Kawahara and Proctor.⁶⁷ Proctor told Glenn to control his dog, and not to let it come near the officers. Glenn gave the dog to the woman and he and the woman tried to get the dog to sit down. Proctor continued to tell Glenn to leave the location. Glenn walked off the sidewalk into the street where Proctor and Kawahara were standing. Kawahara told Glenn to back up. Glenn raised his hands up in the air saying, “Don’t shoot” or “Hands up” and started yelling things “incoherently.” Kawahara could not recall exactly what Glenn said at that point.

Glenn appeared to be under the influence of alcohol. He was staggering, his speech was slurred and he had an unsteady gait. Proctor told Glenn that he was blocking the sidewalk and needed to leave. Glenn turned and looked towards Kawahara and said, “Who’s paying you? Do you want a couple dollars?” Kawahara advised Glenn that he did not want his money, he just needed to leave. Glenn replied, “Well, what the fuck then” and started to walk away. Kawahara told Glenn he needed to leave because he was blocking the sidewalk. Glenn turned around and looked at Kawahara and said something like, “When I turn around, now you got something to say?” Kawahara told Glenn, “I just want you to leave.”

Kawahara turned to Proctor and saw him remove his radio from his radio holster. Proctor appeared to be about to broadcast something when Glenn looked at him and said something like, “You don’t gotta do that” and went back onto the sidewalk and started walking westbound on Windward Avenue.

Kawahara saw Glenn walk over to a white man with a beard wearing a black hat and black T-shirt in front of the Townhouse Bar. The two men began talking. They appeared to be friendly with one another, because they shook hands and were hugging and talking. Kawahara turned his attention to the woman who was still sitting on the ground. He advised her that she needed to leave. She told Kawahara that she could not leave because the dog was Glenn’s and he needed to get his dog back from her. She asked Kawahara if he and Proctor could take the dog to Glenn. Kawahara told her to walk the dog over to Glenn and then leave. The woman replied that she would leave, but not until Kawahara and Proctor left first.

Kawahara glanced over to where Glenn had walked down the street. It appeared that Glenn was still speaking with the man with the beard. Kawahara began walking in Glenn’s direction, westbound on Windward Avenue. Proctor followed Kawahara. Kawahara felt Glenn needed to be

⁶⁶ Kawahara had never seen or come into contact with Glenn previously.

⁶⁷ When asked if the dog was aggressive at all, Kawahara indicated, “When we first got there, the dog was barking but not at us. But toward us he just walked towards us. He – he wasn’t growling or anything.” Kawahara did not feel the threat from the dog was significant enough to draw his service weapon.

reminded to leave because the radio call indicated he had been harassing customers, and if he stayed there the “problem might continue.”⁶⁸

Kawahara was still in the parking lot, behind the parked cars in front of the bar, when Proctor asked him if he should put out a back-up call for a 415 man. Kawahara did not believe at the time that a “back-up” was necessary. Glenn was agitated with the officers, but had not shown any signs of aggression yet. Kawahara told Proctor to put out an additional unit request instead, because Kawahara knew they had just cleared a use of force call at 1515 Pacific, just around the corner from their location, approximately five minutes earlier. Knowing there were four patrol cars and a supervisor there when they had left the call, Kawahara believed there were officers available to respond to an additional unit request “right down the street.”

Although Glenn had been agitated with the officers in front of the Bank of Venice, Kawahara believed he had calmed down as he was talking to the man with the beard. Kawahara was concerned, however, that the situation could escalate based on Glenn’s earlier demeanor. Kawahara intended to wait for additional units before approaching Glenn.

Immediately after Kawahara heard Proctor broadcast the request, he saw that Glenn had begun talking to another individual, later identified as Thomas. The conversation appeared confrontational. Glenn and Thomas’ voices were raised and it looked like they were “getting in each other’s face.” Kawahara observed Thomas putting Glenn in a headlock and throwing Glenn to the ground, with Glenn landing on his left side on the ground. Kawahara realized Thomas was a “doorman” at the Townhouse Bar when Thomas told Glenn “I told you, you can’t come in” or something along those lines. Kawahara walked towards Glenn at that point, having decided they should take him into custody since “he was not going to leave on his own.” Kawahara believed Glenn was the aggressor in the altercation with Thomas, and was concerned that another physical altercation would erupt between Glenn and Thomas if Glenn got up from his position on the ground.

Kawahara grabbed Glenn’s right arm with both of his hands.⁶⁹ He used his left hand on Glenn’s wrist and his right hand on his bicep area. Kawahara ordered Glenn to turn around.⁷⁰ Glenn tensed up his arm. As Kawahara was trying to bend Glenn’s arm at the elbow, Glenn straightened his arm in an effort to prevent Kawahara from getting it behind his back. Kawahara heard Proctor tell Glenn, “He told you to turn around, so turn around.” Proctor grabbed Glenn’s left hand or left arm. Glenn pulled away towards the street, causing Kawahara to lean back. Kawahara felt Glenn was resisting arrest, so as Glenn pulled away from him, he put one foot in front of Glenn’s body and forced Glenn to the ground using a “walk down” maneuver.⁷¹ Kawahara believed Proctor was pulling Glenn forward to get him off balance and use the ground as a controlling agent as well. After getting Glenn off balance, the officers used his body weight to place him on the ground as

⁶⁸ The Townhouse Bar is approximately 200 feet from the Bank of Venice, the location of the initial 9-1-1 call.

⁶⁹ Kawahara was not asked if Glenn had stood up prior to Kawahara’s approach; and did not volunteer that fact. However, based on the content of his statement, it is clear Glenn was standing when Kawahara first made physical contact with him.

⁷⁰ Kawahara wanted Glenn to face the wall next to the entrance of the bar, so Kawahara could handcuff him.

⁷¹ A “walk down” maneuver is a tactic used by police officers where they use the ground as a controlling agent to gain control over a suspect. Officers get a suspect off balance, then pull the suspect down as they hold on to him and place him on the ground.

opposed to “a throw to the ground.” Neither Kawahara nor Proctor had any opportunity to search Glenn prior to taking Glenn to the ground.

While Glenn was on the ground, Kawahara still had a hold of his right arm. Kawahara tried to pull Glenn’s right hand from the ground to place it behind his back so he could handcuff him. Kawahara had his left knee on Glenn’s lower back while he was on the ground. As Kawahara was trying to handcuff Glenn, at some point Glenn was able to plant his right hand or palm on the ground. Glenn started to “push up.” Glenn was strong enough that he was able to push his body up with Kawahara’s leg still on him, lifting Kawahara up with him.⁷² Kawahara took his leg off Glenn’s back to avoid his left leg being lifted off the ground, which would have caused him to lose his balance, and applied his body weight to Glenn in an effort to keep him on the ground.⁷³ Kawahara still had Glenn’s right arm in front of him, and was trying to pull it from the ground so he could force Glenn down and get the hand back behind Glenn. Kawahara believed Glenn’s right hand was below his body, but his palm was facing upwards towards the sky. Glenn’s hand was near Kawahara’s waist area. Glenn was not complying with Kawahara’s effort to get his arm behind his back and was tensing his arm up so that Kawahara could not move it. Kawahara told Glenn to put his hand behind his back. Kawahara could not see what Proctor was doing at that point, but knew he was there because he could hear Proctor grunting. Kawahara was unable to look over to see Proctor from the time they walked Glenn to the ground, due to being engaged in a struggle with Glenn.

Kawahara then heard two gunshots in rapid succession and Glenn fell to the ground laying on his back. Kawahara was unable to see Glenn’s left arm immediately prior to, or at the time the shots were fired, but observed Glenn’s right arm was almost fully extended on the ground when he heard the shots. Kawahara backed up and broadcasted, “Officer needs help, shots fired.” Kawahara also requested an RA for Glenn, advising that he was “25 years old, conscious and breathing.”

Glenn was lying on the ground with his eyes open. He was breathing. Proctor asked Kawahara if he was okay. Kawahara told Proctor he was okay.⁷⁴ Kawahara then asked if Proctor was okay, and Proctor replied that he was.

Other officers arrived and one of them told Kawahara they needed to handcuff Glenn. Kawahara removed his handcuffs and handcuffed Glenn with his hands in front of his body. Glenn was breathing shallowly the entire time and would gasp every now and then. Kawahara verified that the RA was en route, and told Glenn to “hold on” and that “an ambulance was coming” until Kawahara was relieved by another officer and he and Proctor were separated by a supervisor.

Kawahara was asked by detectives whether or not he felt Glenn’s hands make contact with his Sam Browne or his gun during any part of the incident. Kawahara advised detectives, “If it did happen, I don’t know. I didn’t feel any movement on my belt. I – I didn’t feel any jerking movements, and I

⁷² Kawahara was surprised that Glenn was able to lift his body weight.

⁷³ At this point Kawahara thought of possibly using a Taser on Glenn, but he was still engaged in a physical struggle and things were happening very quickly.

⁷⁴ The transcript of the interview says Kawahara indicated he was “not ok.” In a later interview, Kawahara told detectives that must have been a typographical error or him not enunciating correctly, because he told Proctor he was okay.

didn't – I didn't see his hand, well, his – his – I didn't see his right hand anyways go near my gun.” Kawahara believed he had control of Glenn's right hand at the time of the shooting, but could not say specifically that he saw Glenn's right hand the entire time. Kawahara could not see what Glenn was doing with his left hand immediately prior to, or at the time the shots were fired. Kawahara believed his holster was still secure after the incident, but did not recall if he had checked his weapon or holster after the shooting. Kawahara did not know what prompted Proctor to fire his weapon.

Kawahara was not allowed to view the surveillance video from the Townhouse Bar, or his own BWV recording of his initial contact with Glenn, prior to or during his first interview. Additionally, his attorney noted several times during the interview that Kawahara was tired and it was already eight hours past the end of his normal work-shift at the time the interview started.

Second Interview:

A second interview was conducted almost seven months after the shooting. At the onset of questioning, Kawahara was asked whether he had remembered any new, additional or different information since his first interview. Kawahara indicated he did not. Kawahara was then shown the surveillance video from the Townhouse Bar, as well as his BWV recording of the initial encounter, for the first time during the interview.

Kawahara identified the video taken from his personal video recorder and indicated he had not altered or deleted it in any way prior to turning it in to his supervisor immediately after the shooting.⁷⁵ He was asked to listen to a portion of the video as Glenn is walking westbound toward the Townhouse Bar, moments before the video is turned off. Kawahara indicated he heard the words “suspect drunk in public.” Kawahara identified himself as the speaker, but did not recall the context in which he had said the words.

Kawahara was then shown the Townhouse Bar surveillance video. After viewing the video, Kawahara indicated that after the shooting he could see himself touching his left pant leg in the video. When asked why he did that, Kawahara indicated that his back-up weapon on his left ankle was exposed. Prior to seeing the video, Kawahara did not recall his weapon being exposed or checking the area.⁷⁶

Kawahara was directed to view the portion of the video where Glenn is taken to the ground. After viewing the video, Kawahara indicated that he did not see himself putting his foot in front of Glenn to get him off balance on the video. Kawahara told detectives, “I watched the video and it doesn't appear that I did it, but I – I – I thought I distinctly remember I used – tried to use my foot to get the suspect off balance when we were taking him to the ground.”

Kawahara was asked whether, after viewing the video, he ever lost his grip on Glenn's right arm during the incident. Kawahara indicated, “I thought I had his right arm the whole time.” When asked about what he saw on the video, Kawahara said, “It – I mean, it – it showed that towards the

⁷⁵ Subsequent forensic examination confirmed that once turned off after the initial encounter, Kawahara's BV recorder was never turned back on.

⁷⁶ Kawahara's back-up weapon was never swabbed for DNA or retained for any scientific testing.

end of the – of the use of force his right arm was around my thigh.” He further stated, “So I don’t know if I still had it but it appeared that I didn’t have full control of it anymore.”

Kawahara did not recall Glenn touching his right thigh, but observed it on the video.

Kawahara’s attorney, Hanna, asked Kawahara if he ever said “Oh shit” during the struggle.⁷⁷ Kawahara replied, “Don’t – I don’t remember saying it but I mean, I – I could have when – when I was losing my balance when he was standing up.”

Statements of Civilian Witnesses



Still photo from surveillance video depicting civilian witnesses and their locations.

Dimario Thomas⁷⁸

First Interview:

Dimario Thomas was employed as a security guard at the Townhouse Bar on the date of the incident. He was outside the bar, slightly to the left of the entrance, when he observed some “homeless individuals” being approached by police officers. Two of the individuals packed up their things and left, leaving two remaining. One man, later identified as Glenn, was standing with a dog while a woman was sitting down. Thomas saw Glenn approach the officers. He could not hear the conversation between Glenn and the officers, but saw Glenn walk away from the officers, towards

⁷⁷ Hanna also represented Proctor during his first and second interviews.

⁷⁸ Thomas was interviewed by LAPD FID detectives on May 6, 2015 and December 16, 2015.

his location. Thomas saw Glenn approach one of the bar's patrons. Initially they appeared to be having a conversation, but at some point "that customer got annoyed or he became hostile, and the customer walked away and came back inside the bar." Thomas believed that Glenn had angered the customer.

Glenn came towards the door into the bar.⁷⁹ Thomas believed Glenn was drunk and could smell alcohol on him. Concerned that Glenn would bother the bar's patrons, Thomas walked in front of him and told him, "My man, you gotta – you gotta go down the street, brother. You know, you gotta go down the street." Thomas put his right arm out to push Glenn away. Glenn grabbed and tried to squeeze Thomas' arm. Thomas pushed him away with his right arm, causing Glenn to fall to the ground. Glenn stood back up as officers approached and told Thomas they would handle the situation.

Thomas backed up and the officers approached Glenn. Thomas could not recall what the officers asked Glenn, but observed them push Glenn against the wall and ask him to turn around. Glenn refused to turn around. Thomas heard Proctor ask Glenn to get on the ground.⁸⁰ Glenn would not get on the ground, and was "holding his ground." Proctor grabbed Glenn by the collar of his shirt. Kawahara also grabbed Glenn, and they took him to the ground.⁸¹ Glenn was still fighting against it. Proctor got on top of Glenn with his knee in an effort to get Glenn's hand behind his back and handcuff him. Kawahara was grabbing Glenn's right arm, but did not appear to have his knee on Glenn. Glenn was fighting against the officers as they tried to get his hands behind his back to handcuff him. Thomas believed the officers were yelling commands, but could not recall. Thomas observed Glenn get "momentum to push up -- push him up off of him, kinda get up to his knees." Glenn got some leverage and was able to push both officers off. Thomas believed Glenn "got loose somehow and was able to put both hands on the ground to push up."

Thomas turned around to watch the door, then heard two gunshots. Thomas turned back around and saw Glenn on the ground and Proctor performing CPR on him. When asked whether either officer had ever spoken to him after the shooting, Thomas said no, but other officers who arrived after the shooting told everyone to go inside the bar.

Second Interview:

In a second interview conducted seven months later, Thomas changed parts of his statement. When shown a still photograph from the surveillance video, Thomas indicated he did see Proctor "pull his gun." Thomas said although he knew what a gun looked like, he thought it was a "big-ass Taser." Thomas believed they were going to "tase" Glenn "because of his resistance." Thomas said he was "shocked" when two shots "went off."

⁷⁹ Thomas was familiar with Glenn, having seen him once or twice in the two weeks preceding the incident. He believed Glenn was new to the area and had previously seen him asking people for cigarettes. Thomas indicated bar employees had asked Glenn to leave on previous occasions and Glenn would leave voluntarily, but then return half an hour later. Glenn always had a dog with him.

⁸⁰ Thomas described Proctor as the "black officer."

⁸¹ Thomas identified Kawahara as the "Asian officer."

Thomas told detectives that during the first interview he “just wanted to be done with this,” and that he knew the surveillance camera was there and detectives would have all the information they needed. Thomas said it was intimidating dealing with the police and he tried to avoid doing so.

Thomas also indicated that he had observed the officers dealing with Glenn and others earlier down the street. He said “their approaching them was very calm. The officers at that time. They were talking to them, wasn’t hostile.” Thomas could not hear what the officers said to Glenn, but their “body language wasn’t hostile.” He saw the officers return to their vehicle, then stand there watching Glenn as he walked towards the Townhouse Bar. Thomas believed they were assessing what Glenn was going to do.

Thomas said he knew Glenn’s face, but did not know his name until after the incident. A couple who had been inside the bar had gone outside and Glenn approached them. Thomas was watching because he was concerned Glenn might be bothering the couple since he had seen Glenn bother customers before. It appeared that Glenn’s interaction with the couple was “cool” initially, and Glenn and the male customer “hugged it out.” When the couple returned to the bar, however, the male customer had “a kind of pissed off face.”

Glenn then approached the bar, so Thomas approached him and said, “Not tonight bro. I need you to just keep moving.” Thomas then put out his right arm to guide him on. Glenn grabbed Thomas and Thomas “slammed him.” Glenn “got back up.” The officers approached and one of Thomas’ bosses who was outside said, “Back up, Mario. They got him.” One of the officers heard his name and said, “Yeah, we got him, Mario.” Thomas backed up.

The officers were talking to Glenn, but Thomas did not recall what they were saying. He believed it was something like, “We already talked to you, my man. You got to go. You aren’t listening. C’mon, you got to go with us now.” Thomas heard the officers tell Glenn to get down. Glenn’s back was against the wall at this point. Thomas stated, “They went to grab him, they kind of slipped off, stumbled. Both of them did. They grabbed him again and threw him to the ground.” Thomas saw, “One on each arm, they grabbed to pull him down. Not even – again, like I said before, not real hard.” Thomas described it as pulling Glenn to the ground, “not even like a hard slam” and said it was “not harder than I slammed him, that’s for sure.”

Thomas told detectives that he has seen police brutality on television that he felt was uncalled for. Prior to shots being fired Thomas felt “the officers weren’t doing nothing wrong. They weren’t really aggressive. They were just trying to, like, handcuff him and he was struggling against them. When he – somehow he got his hands back in front of him to push up – to push his body up. When he did that, the officer who fired kind of slipped off and said something on the lines, like, ‘are we going to do this’ or ‘you going’ – or ‘this is how it’s going to be’ or something along those lines, and he pulled his weapon.”

Thomas said Proctor “slid off” of Glenn when Glenn “broke loose.” Prior to that, the officers had Glenn’s arms. “When he broke loose, that officer fell,” leaving Kawahara still on Glenn’s right side, grabbing for Glenn’s right hand as Glenn was pushing himself up and “fighting.” As Proctor reached for his gun, Kawahara was still “struggling very close” to Glenn. Glenn was “still fighting them.” Glenn was “pushing up trying to stand up.” Thomas said, “The officers were basically

trying to push him down to the ground to pull his arm back to put cuffs on him, Brendon was fighting back. He was still on his – I don't remember if he had both knees down, like one knee down, the leg – other leg up. I don't remember. But I know he was – he was leaning over.”

Thomas recalled that the two shots were fired quickly. He saw Glenn fall “straight back” after the second shot. After shots were fired, Thomas thought Kawahara had been shot “because he grabbed for his gun – I mean, grabbed for his – his partner grabbed for his chest and was kind of, like, stumbling.” Glenn fell flat on his back. Proctor went very quickly to check on Kawahara to make sure he was okay, then began administering CPR to Glenn.

Thomas walked inside the bar. Proctor followed him and said, “Mario, Mario, you saw it.” Thomas believed Proctor remembered his name from earlier, saying, “You saw it. Like, he reached for my weapon.” Thomas told detectives he replied, “I didn't see shit.” When questioned in more detail, Thomas said Proctor did not “approach me harsh or anything like that. It wasn't, like – it wasn't, you know, I didn't feel scared or nothing like that. He just was, like, you saw what happened. And you saw him reach for my gun. And I told him I did not see any – anything.”

Thomas told detectives he did not recall seeing Glenn reach for Proctor's weapon. He also did not recall seeing Glenn's hands on Kawahara's weapon. He told detectives he had seen the video the week of the shooting. According to Thomas, “some other, like, high-ups in the department came and was talking to our owner. And I went upstairs and they were showing the – they were talking. And then I went upstairs and they kind of looked at the video again.”⁸² Thomas did not see Glenn grab Kawahara's leg at the time, but observed it in the video. Thomas indicated he did not know whether or not Glenn had reached for Kawahara's weapon, he just remembered Glenn “trying to fight – he was just resisting being arrested.”

Igor Petrovic⁸³

First Interview:

Igor Petrovic was employed by the Townhouse Bar on the night of the incident. He was outside the bar when he observed two officers arguing with a homeless guy, later identified as Glenn, down the street. Glenn then attempted to get into the bar. Glenn appeared to be “drunk,” “high” or “out of his mind.” Petrovic told Glenn to “back off.” Glenn was “kind of aggressive,” so he and Thomas “just pushed him away a little bit.” Petrovic could not recall what Glenn was saying, but believed he was screaming something. Whatever Glenn was saying did not make sense to Petrovic. Thomas “pushed him away really easy,” causing Glenn to fall to the ground. Glenn got back up, as two officers approached and stated, “Ok, we got him.”

The officers were trying to calm Glenn down. At some point each officer grabbed one of Glenn's arms. Proctor grabbed Glenn on the left and Kawahara grabbed Glenn on the right.⁸⁴ Petrovic then

⁸² Thomas was referring to LAPD as “the department.” There is no written record of this meeting.

⁸³ Petrovic was interviewed by LAPD FID detectives and LADA personnel on May 19, 2015, and by FID detectives on December 17, 2015.

⁸⁴ Petrovic described Proctor as “the black officer” and Kawahara as “the white officer.”

saw the officers get into a “fight” with Glenn. Again he observed that Glenn was “too aggressive.” Petrovic described Glenn as “resisting.”

The officers tried to take Glenn to the ground. Each officer was on one side of Glenn, trying to grab his hands. The officers got Glenn to the ground, and Petrovic saw Glenn was on his stomach. He then observed Glenn resisting and trying to stand up. The officers were trying to get him back to the ground. During the incident, Petrovic believed one of the officers was telling Glenn to “calm down.” Petrovic believed Proctor spoke to Glenn more than Kawahara. He also thought the officers may have warned Glenn “a few times” before he was on the ground. Glenn was resisting “all the time” physically and did not calm down. Although Petrovic saw Glenn “fighting,” Petrovic thought the officers had a hold of Glenn’s hands and had handcuffed him. Seeing Glenn begin to stand up, Petrovic assumed he was handcuffed and the incident was over, so he stopped watching. Petrovic heard “it start again, like to resist or whatever” and then heard two shots. Petrovic did not see where Glenn’s hands were immediately prior to or at the time he was shot.

Petrovic initially thought a Taser had been used. He thought Glenn, “Probably like he tried to do something and they like tried to calm him down.” Based on what he observed, Petrovic believed Glenn “probably he – he – he do something again like really fast or if he tried to resist again” immediately prior to the shots being fired. Petrovic did not see Proctor holding his service weapon until after the shooting.

After the shooting, he saw Proctor “trying to help” Glenn.

Second Interview:

During his second interview, Petrovic was confronted with still photos taken from the surveillance video. When shown that the photos depicted him looking in the direction of the incident at the time of the shooting, Petrovic stated he had been looking when they got into a “fight,” but did not see a gun because his view was obstructed. He stated that he looked down for “a second,” and then heard shots. Petrovic said he looked up again when he heard the shots.

Trevor Campbell⁸⁵

Trevor Campbell was visiting Los Angeles and was staying at the Hotel Erwin, two blocks from the Townhouse Bar. Campbell met up with a college buddy, Julian Sweedler, and had dinner. They went to the Hotel Erwin, then walked to the Townhouse Bar.

The first thing Campbell noticed as they approached the bar was what he described as a scuffle. They were in front of the bar and he looked up when he heard Glenn in an altercation with the bouncer. It appeared to Campbell that the bouncer, Thomas, had extricated Glenn from inside the bar. Campbell observed “a pretty good struggle” between Thomas and Glenn. It looked like Thomas “had the best” of Glenn and was pushing him outside. He described their actions as “grappling with each other,” and “a big major struggle.”

⁸⁵ Campbell was interviewed by Detective Sanchez telephonically on May 8, 2015.

After a few seconds, Campbell saw Kawahara and Proctor walk quickly up to the scene. Proctor “took control of the situation.” It appeared as if Proctor was taking the lead and engaged Glenn and started “wrestling” with him while standing up. Campbell believed Proctor was trying to arrest Glenn, but Glenn was resisting and it was very difficult for Proctor to get Glenn to the ground or handcuff him. They never hit the ground. Campbell saw Glenn “grappling with his hands.” The second officer, Kawahara, then engaged.⁸⁶ Kawahara “wasn’t able to be effective.” It appeared to Campbell that the officers were having a difficult time controlling Glenn, despite there being two officers. He sensed frustration on the part of the officers. Glenn was visibly drunk and was “definitely resisting arrest.” Campbell described Glenn as “clearly resisting arrest at all costs.” Campbell indicated it was very clear that Glenn was trying his hardest not to be detained.

Proctor was able to get Glenn to the ground. While both officers were engaged with Glenn, Proctor pulled away, leaving Kawahara still engaged. When Kawahara let go, shots were fired. The shots were fired one after another, very quickly. Campbell thought Kawahara had fired the shots. Campbell was approximately four to five feet away from Glenn when shots were fired. Glenn fell back and his head kind of hit the ground. One of Glenn’s shoes came off.

Campbell observed Proctor immediately drop to his knees and perform CPR. Shortly after, additional officers began to arrive.

Campbell indicated the entire incident happened very quickly. He estimated that it was a minute and a half to two minutes from the time he first looked up until shots were fired.

*Julian Sweedler*⁸⁷

Julian Sweedler was in Venice visiting a friend who was staying at the hotel next door to the Townhouse Bar. He was walking towards the Townhouse Bar when he observed two officers involved in what he described as “a confrontation.” Sweedler saw two men he believed to be security guards with a “dirty irate looking guy” he believed “looked like a – one of crazy homeless people you see around Venice, but he was younger-looking.” It appeared to Sweedler that the man, later identified as Glenn, “was causing trouble.” Glenn was screaming and yelling and “looked like he was out of his mind.” Sweedler saw officers telling the man to “calm down.” Glenn was flailing his arms and looked like he was intoxicated or under the influence of drugs. Sweedler could not tell whether or not Glenn was striking anyone, but saw his arms flailing around “like he was not in the right state of mind” and said he looked angry and agitated.

Eventually Sweedler observed the officers attempt to handcuff Glenn, telling him to put his hands behind his back. Glenn was resisting arrest and a struggle ensued. Sweedler observed Glenn physically resisting the officers and believed he was “trying to fight them.” After they struggled with Glenn for a few moments, the officers took Glenn to the ground and were on top of him.⁸⁸ Glenn continued to fight while he was on the ground, as the two officers attempted to hold him down. The officers were having a hard time keeping Glenn on the ground, and Sweedler believed

⁸⁶ Campbell described Kawahara as the “white” officer.

⁸⁷ Sweedler was interviewed by LAPD FID detectives on May 8, 2015.

⁸⁸ Sweedler believed Proctor, who he described as the “bigger” officer, took Glenn to the ground, but both officers were involved in the effort.

Proctor ordered Glenn to put his hands behind his back. Sweedler heard Glenn yelling, but could not recall what he was saying other than it being “obscene and vulgar.” Glenn was fighting and trying to get back up, moving and throwing his arms around. Sweedler also believed Glenn was kicking. Sweedler thought Kawahara looked like he could not handle Glenn.⁸⁹ Proctor had his knee on Glenn’s back holding him down, when Sweedler observed Proctor reach for what Sweedler believed was his Taser. Sweedler believed Kawahara also may have had a knee on Glenn’s back and was attempting to grab Glenn’s arm, but felt Proctor had more leverage on him. The officers were trying to push Glenn onto his belly, but Glenn was trying to push up. Sweedler then saw Proctor press what he thought was a Taser to Glenn’s back and heard two pops. At the time, Sweedler felt the use of a Taser was “totally justifiable ‘cause the guy was being crazy resisting.” Sweedler was unaware that Glenn had been shot until he read news reports of the incident the next morning. Sweedler did not see Glenn “consciously” reach for either officer’s weapon, but felt “it could have happened.” Sweedler indicated that immediately prior to the shots being fired, “they were both on top of him and he was flailing, and like I said, it looked like he was kind of overpowering them. That might have been a concern for the officer.” Sweedler could not see Glenn’s hands immediately prior to or at the time of the shooting. Sweedler saw Glenn’s hands flailing while on the ground and believed Glenn “could have been trying to go for a gun.”

Sweedler saw Proctor get off of Glenn and then observed him administering CPR. Proctor had what Sweedler described as a “stark” look on his face and looked pale and scared.

*Carlos Nino*⁹⁰

Carlos Nino worked as a manager at the Townhouse Bar. On the night of the incident he was sitting on a stool outside the entrance of the establishment. Nino indicated he frequently sits outside the bar doing what he referred to as “vibe checking.” He watches people as they come in, as they approach the bar, and provides back-up to the two bouncers who work at the location.

As he sat outside the bar, he saw four people “hanging out” outside another establishment, Animal House. One of them was a woman with long silver-gray dreadlocks. Nino was paying attention to the group because there had been previous incidents where people on the street or panhandlers bothered patrons of the Townhouse Bar.

Nino saw a police car approach from the west and stop near the group of four people. Two of the people, who had been playing music, immediately began gathering their things and left, leaving the woman and another man, later identified as Glenn. Nino saw the officers exit their vehicle and approach the woman and Glenn. Nino did not hear what words were exchanged, but it appeared to him that the officers were telling Glenn he needed to move.

Later, Nino observed Glenn walking towards the Townhouse Bar. Nino could tell immediately that Glenn was “sketchy.” Nino described Glenn as having “a bit of an energy, definitely someone that

⁸⁹ Sweedler described Kawahara as the “white” officer.

⁹⁰ Nino was interviewed by LAPD FID detectives on May 6, 2015. LADA personnel were interviewing another civilian witness when the interview was started and were not advised by LAPD that Nino’s interview was taking place. Upon learning that Nino was being questioned, LADA personnel joined the interview approximately halfway through.

we would have red flagged and made sure did not come into the bar or bother any of our patrons.” Glenn appeared “swaggy” to Nino, “not in a positive way.” Nino saw Glenn have an interaction with another man who had been inside the bar earlier with his girlfriend. Nino saw Glenn embrace the man, which he thought was strange.

Glenn approached the entrance to the bar and one of the bouncers, Thomas, asked him to leave. Nino heard Thomas say something to the effect of, “My man, you can’t come in here. You can’t be by the door. We need you to move on.” Glenn “wasn’t having it” and began to get upset. Nino described Glenn as “sketchy, like ornery, like a little off.” Glenn was playing with his shirt and his pants and seemed a little “tripped out.” As Glenn spoke with Thomas, Nino felt Glenn was being “more verbally sketchy.” Glenn got closer to the door and Thomas blocked him. Thomas put his hand on Glenn’s arm and made an effort to physically move Glenn away from the bar entrance. Glenn resisted Thomas and Thomas attempted to move him again. Nino observed “a lot of resistance” from Glenn, which kept Thomas from “pushing him off of him.” Thomas was not able to move Glenn; his feet were still in the same position.

As this was going on, Nino observed that the two police officers who had parked near the Animal House were watching and making their way towards the bar. Thomas tried to move Glenn again, causing Glenn to go down on his side. Glenn “jerked back up.” At that point, the two officers stepped in. Thomas was approaching Glenn, but Nino called him back using his first name. Nino felt that “there was something not right” with Glenn and thought it was better to have the officers handle the situation. The officers grabbed Glenn’s arms and began wrestling with Glenn. Each took one of his arms and took him to the ground. Kawahara took Glenn’s right arm and Proctor took his left.⁹¹ Proctor had his knee on Glenn’s back. It was very clear to Nino that they were having trouble with Glenn. Glenn was moving his arms while the officers attempted to keep him down. Glenn was trying to push himself back up. At one point his knees were on the ground. Glenn was resisting. Glenn seemed to be getting a little more leverage on the right side where Kawahara was holding him. Nino did not see Glenn get fully upright, but he was raising himself up. Kawahara appeared to have lost his grip on Glenn. Nino’s view of Kawahara from the waist down was obstructed. He could not see Kawahara’s gun belt. Proctor then let go of Glenn. Nino did not see Proctor draw his weapon, but believed he did so after Kawahara lost his grip on Glenn’s right side. When he got loose on the right side, “all that stuff happened.” It appeared to Nino that Glenn had broken the officer’s hold immediately prior to hearing two gunshots. Nino could not see Glenn’s hands the entire time of the scuffle. He observed Glenn’s hands behind his back at some point, and then he tried to get up. Nino stated, “as he’s trying to get up, his hands go behind his back.”

After the gunshots, Nino observed Glenn on his back. Nino did not see Proctor draw or fire his weapon. Kawahara looked like he had been shot and seemed “discombobulated.” Proctor went to check on Kawahara and also appeared to be trying to figure out Glenn’s condition. Later, Proctor approached Nino and Thomas and said, “Dimario, you saw what happened, right? You saw what happened, right?” Nino did not believe it was a malicious shooting. Based on Proctor’s demeanor after the shooting, Nino felt it was a mistake. Proctor looked “shook” to Nino.

⁹¹ Nino described Kawahara as “the Asian officer” and Proctor as “the African American officer.”

*Kenneth Barrientos*⁹²

Kenneth Barrientos was employed by the Townhouse Bar as a sound engineer on the date of the incident. He had been outside for about five minutes talking to Carlos Nino when he saw a police car pull up three or four businesses down the street. Officers exited the vehicle and started talking to what appeared to be a group of homeless people who were gathered sitting on the ground. One of the people in the group, later identified as Glenn, got up to talk to the police officers. Barrientos could not hear what was said by Glenn or the officers, but he saw that Glenn seemed to have startled the officers by how close he got in proximity to them. The officers' body language made Barrientos believe they were possibly threatened by Glenn "walking up on them." He then heard one of the officers say something to the effect of, "Whoa, whoa, don't get near." Glenn continued approaching anyway. The officers "seemed to understand that they were just talking," and the contact resolved without incident. Some of the other homeless people had packed up their things and started walking away.

Barrientos saw Glenn begin walking towards the Townhouse Bar. There was a crowd of people in front of the bar entrance. Glenn startled the group by talking "very closely" in a "belligerent" fashion. Glenn seemed to be invading customers' space. Barrientos could not hear what Glenn was saying, but the patrons of the bar seemed "afraid" of Glenn. Barrientos then heard bar security officers telling Glenn to step away, that he was getting too close to the customers. Barrientos was unable to recall the exact words used. Glenn "did not take well to that." Barrientos noticed Glenn raising his arm to grab Thomas, one of the security guards. Thomas blocked Glenn's arm and took Glenn to the ground.

At that point, the two officers who had previously contacted Glenn saw that Glenn was in a scuffle with Thomas and took over. The officers attempted to arrest Glenn, but Glenn resisted. Barrientos could not tell if Glenn was "attacking back," but could see that Glenn was moving. The officers got Glenn to the ground, but Barrientos did not see how they did so. Proctor was on Glenn's left and had his knee on Glenn's back.⁹³ It appeared the officers were getting ready to handcuff Glenn and had his hands behind his back. Barrientos observed Kawahara on Glenn's right, but could not tell what he was doing.⁹⁴ Barrientos heard something said, but was unsure of the words. He thought it might have been "oh really" or "oh yeah" or "are you ready." Proctor then got off of Glenn's back and Kawahara stepped away a few feet.

While Proctor had been crouched low over Glenn with his knee on his back, Barrientos noticed a change in the "energy." Barrientos indicated, "Something had happened in that position that made the officer want to stand up from where he originally was and shoot him." Proctor "seemed to be motioned by something – to take action – in what – what, apparently, was, you know, the need to shoot him twice." Barrientos did not know what Glenn was doing, but saw a lot of movement and resistance by Glenn. He perceived that Glenn was trying to "shake" the officers off of him.

⁹² Barrientos was interviewed by LAPD FID detectives on May 6, 2015. LADA personnel were interviewing another civilian witness and were not advised that Barrientos was being interviewed until after the interview had concluded.

⁹³ Barrientos described Proctor as "the black officer."

⁹⁴ Barrientos described Kawahara as "the Asian officer."

Barrientos believed Glenn “could have been doing more because he was in a different position at the time” and may have been trying to push his body up.

Barrientos saw Proctor take a couple steps back and draw his weapon. Proctor fired two shots and Glenn fell to his back. Barrientos thought Glenn was on his hands and knees or was possibly turning when he was shot. Barrientos described Glenn as “sort of crawling.” Barrientos did not remember if Glenn was on both of his feet or whether he was still getting up at the time of the shooting. At some point Barrientos saw Glenn “get his hands free.” Glenn was able to bring his hands to the floor to push up. He also saw Glenn’s knees come up off the ground.

After the shots were fired, Barrientos observed Proctor rendering CPR to

Glenn. *Richard Bryant*⁹⁵

Richard Bryant had parked his car in front of the Townhouse Bar and was preparing to speed skate when he noticed a commotion in front of a building down the street. Bryant saw two officers pulled over to the side, engaged with other people he could not see. The officers were standing facing someone on the sidewalk or on the median. Bryant noticed the bouncers and patrons in front of the Townhouse Bar also appeared to be looking in the direction of the officers. He continued changing his clothing in preparation to skate.

Within approximately five minutes he saw a man, later identified as Glenn, approach the bouncers. Glenn was “belligerent and loud and boisterous.” Glenn was shouting expletives “as if someone had done him wrong.” Glenn “got in the face” of one of the bouncers. The bouncer told Glenn to “move on.” Glenn did not want to leave. Glenn appeared to be intoxicated and maybe under the influence of other substances. Bryant saw Glenn push the bouncer. The bouncer pushed Glenn. Bryant then saw that the altercation had gotten the attention of the two officers, who began walking towards the bar.

The pushing between Glenn and the bouncer got “a little more aggressive,” and the bouncer pushed Glenn in the throat area. Bryant believed Glenn then did the same thing to the bouncer. Bryant perceived Glenn as “not altogether there.” The officers then came over and attempted to pull Glenn away from the bar. Glenn was combative and refused to leave. Bryant heard the officers say something to the effect of, “Sir, step away from this. Sir, let’s move away from this.” Glenn did not want to go, and according to Bryant, “that’s when he started to swing.” Glenn physically resisted when the officers each grabbed one of his shoulders, and he pushed the officers back as they tried to restrain him. Both Proctor and Kawahara attempted to pull Glenn away from the bar area.⁹⁶ Bryant described Glenn’s posture as, “I’m not going anywhere,” and believed Glenn was using his elbows in an effort to get the officers to release him. Bryant heard an officer say, “Sir, you need to go down. Sir, you need to step away from the bar.” The officers took Glenn to the ground, but Glenn continued to resist. Bryant heard an officer tell Glenn, “Sir, we need you to stay down.

⁹⁵ Bryant was interviewed by LAPD FID detectives and LADA personnel on May 6, 2015.

⁹⁶ Bryant described Proctor as the “black male,” and Kawahara as the “Asian or Latin male.” When describing their relative positions, he referred to Proctor as being on the right and Kawahara as being on the left. Later in the interview he indicated Proctor was on the left and Kawahara on the right.

We need you to put your hands behind your back.” Glenn did not comply. He continued struggling with the officers.

Bryant’s vehicle was parked right in front of the door to the bar. His trunk was open, so he was observing the altercation through the glass of his vehicle’s hatchback from the rear passenger side. At this point, it appeared to Bryant that punches were flying. It was difficult for him to tell based on his location, but Bryant could see bodies moving and the officers trying to hold Glenn down. It appeared to Bryant that the officers were going to succeed in restraining Glenn on the pavement. Bryant believed Glenn was using his elbows to fight the officers. The officers had him “spread eagle” on the ground, but it appeared as if Glenn was not all the way down. Bryant believed Glenn was “holding himself on his hands and was still on his feet.” Bryant noted that Glenn “wouldn’t go down” and remained in a “crouched position.” Bryant could see that Glenn was still on his feet.

Bryant saw Proctor draw his gun from his holster. Bryant believed Proctor’s other hand was still on Glenn’s back. Proctor fired one round, shooting Glenn in the lower back or glute area. After he fired the first round, Glenn still did not go down. Glenn was “still up on his hands and what seemed like his hands and his feet crouched.” Bryant did not see Glenn’s hands actually touching the ground, but saw his hands “coming up.” There was a delay, and then Proctor fired a second time. Glenn fell to the ground, landing on his back. Bryant could not see Glenn’s hands immediately prior to or at the time Proctor fired his weapon. Bryant’s view of Glenn’s left hand was obstructed by Proctor, and his view of Glenn’s right hand was obstructed by Glenn’s body.

After the shooting, Bryant believed Kawahara was injured in some way. He seemed to grab his neck. Proctor checked on Glenn, then asked Kawahara if he was okay. Bryant believed Kawahara indicated he was not. Kawahara looked dazed and confused to Bryant.

Additional officers arrived at the location. Bryant got into his vehicle and parked it across the street.

Bryant indicated both officers were “calm throughout the whole situation.” Per Bryant, “They didn’t seem highly agitated other than maybe a little frustrated that this guy isn’t complying, he’s resisting, and they need him to comply.” Bryant also noted that the officers “seemed like they were being threatened because this guy was really coming for them.” Bryant described Glenn as “a little frightening.” He also indicated that Glenn “was threatening to the bouncer, owner, and he was also threatening to the officers.”

*Angelica Tellez-Hernandez*⁹⁷

Angelica Tellez-Hernandez was in the parking area of the Townhouse Bar when she saw Glenn giving the bouncers what she referred to as “trouble.” Tellez-Hernandez believed he was homeless. She heard him say something to the effect of, “Well I’m not going to bring you any coffee.” The bouncers were telling him to just go away. She heard one say, “Just go. Just go.” She described Glenn as “interfering” with the bar’s customers and the bouncers doing their jobs. Tellez-Hernandez then saw one of the bouncers push Glenn to the side. Glenn hit the bouncer and the bouncer hit Glenn. Glenn went down, came back up and then she observed police approaching.

⁹⁷ Tellez-Hernandez was interviewed by LAPD FID detectives on May 11, 2015.

The officers asked Glenn to leave. Glenn would not leave the area. She heard one officer say, “You got to leave. If not, we are going to have to arrest you.” Glenn replied, “I’m not leaving. I’m not leaving.” Tellez-Hernandez described Glenn as “very resistant.” The officers tried to move Glenn to the side, but Glenn resisted. The officers placed Glenn face-down on the ground and told him he was being arrested. She observed both officers take him to the ground in one move. Even as he was being taken to the ground, “he was resisting the whole time.” The officers were trying to put his hands behind his back to handcuff him, but Glenn continued to resist. The officers could not handcuff Glenn because he “fought them.” Glenn put his hand or hands on the ground and tried to get back up. The officers pushed him back down. Seconds later, Tellez-Hernandez heard two gunshots.

At the time the shots were fired, Proctor was standing and leaning over Glenn. Tellez-Hernandez saw him draw his weapon. Glenn was “leaning up” at the time he was shot. He was approximately halfway up, in a push-up position of sorts. Both shots were very quick. Kawahara was still in physical contact with Glenn when the shots were fired. Both the officers were trying to get Glenn back down. Tellez-Hernandez believed Glenn fell to his knees when he was shot. Tellez-Hernandez was unable to see Glenn’s hands immediately before or at the time of the shooting. She was focused on Proctor’s gun, and was not at an angle to see where Glenn’s hands were. She did not see or know what threat he may have posed.

Other Witnesses



Still photo from surveillance video depicting where other witnesses were located.

As depicted in the photograph above, Group A (two men), was first observed via the surveillance camera from the Bank of Venice, walking southbound in the crosswalk at Pacific Avenue. Group A walked west on Windward Street. They were in close proximity to the OIS. Group B (one man and two women) was observed via surveillance camera initially inside the Bank of Venice, sitting at the

bar with two additional individuals (a man and a woman). The five individuals exited the bar and after several minutes split up. Two of the individuals walked eastbound out of the view of the camera. The other three walked westbound, behind Group A. LAPD was unable to identify any of the individuals in Group A or Group B. Multiple canvasses were done of the area by LAPD in an effort to locate these witnesses or any other witnesses to the incident.

Three other individuals claimed to have witnessed the incident. Paris Edwards, Kim Kilpatrick and Tim Truman were interviewed by LAPD FID detectives. Their recollection of events was inconsistent with the witnesses outside the Townhouse Bar and the surveillance video.⁹⁸

Several other people identified themselves as witnesses either on social media, or when interviewed by reporters at protests regarding this incident. None of these witnesses came forward to provide a statement to LAPD regarding the incident, despite LAPD's efforts to identify and speak to them through local businesses, contact cards and local outreach programs. To the extent LAPD was able to identify any of these individuals, attempts to contact them were made.⁹⁹ Those contacted by LAPD refused to make any statements. None of these witnesses provided any information, on social media or to reporters, which was consistent with the videos or witness interviews in this matter.

Autopsy

On May 6, 2015, Los Angeles County Department of the Coroner (LAC DOC) Investigator Allen Moses transported Glenn's remains from the UCLA Medical Center to the LAC DOC Forensic Science Center. On May 7, 2015, LAC DOC Deputy Medical Examiner Doctor Lawrence Nguyen performed a post-mortem examination of Glenn's remains. Doctor Nguyen ascribed the cause of death to multiple gunshot wounds and collected samples for toxicological analysis.

Doctor Nguyen noted there were two gunshot wounds, which he labeled "Gunshot Wound A" and "Gunshot Wound B." The lettering sequence was used for descriptive purpose, and was not intended to convey an opinion as to the order in which the wounds were inflicted.¹⁰⁰

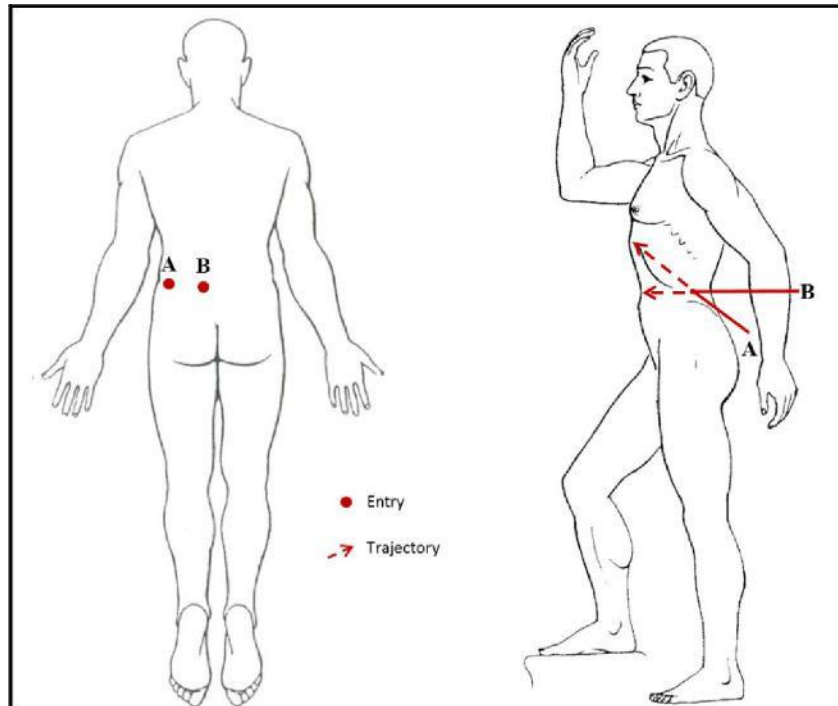
Gunshot Wound A entered the left flank and terminated within the right upper abdominal wall beneath the skin surface, where a projectile was recovered. The projectile traveled from back to front and left to right, slightly upward in trajectory. This wound was deemed immediately life threatening.

⁹⁸ Edwards indicated that his recollection of the incident was poor, but he clearly remembered Glenn "reaching back" just prior to shots being fired.

⁹⁹ LAPD also conducted multiple canvasses of the area looking for any additional witnesses, as well as sending contact cards to the registered owners of all vehicles parked in close proximity to the shooting. Local businesses were canvassed for potential witnesses, and to identify individuals depicted in various parts of the surveillance videos.

¹⁰⁰ Moses noted in an initial case report that he observed a possible gunshot wound to Glenn's lateral chest. Doctor Nguyen determined the wound was actually attributable to a medical procedure called a "finger thoracotomy," which was performed at UCLA Medical Center during emergency medical treatment administered after the shooting.

Gunshot Wound B entered the left medial back and terminated within the abdominal mesentery, where it was recovered. The projectile traveled from back to front and slightly left to right. This wound was deemed immediately life threatening. No soot or stippling was observed on any of Glenn's wounds.¹⁰¹ The projectiles were booked into evidence. A Gun Shot Residue (GSR) kit was collected, but not tested, because there was no indication that Glenn was actually touching Proctor's weapon at the time it was discharged.



Autopsy diagram depicting Glenn's wounds.

Toxicology testing was performed by LAC DOC Senior Criminalist Jaime Lintemoot. Glenn's blood contained both alcohol and marijuana at the time of his death. His blood alcohol content based on abdominal blood was .53%. His blood alcohol content based on femoral blood was .27%. His blood alcohol content based on heart blood was .25%.

¹⁰¹ Soot or stippling would be indicative of an extremely close-range shot.

Proctor's Injury

Proctor sustained an injury to his right knee during the attempt to take Glenn into custody. Proctor was transported to Reliant Immediate Care for treatment. Proctor was seen by Doctor Vanessa McKenzie, who prescribed him anti-inflammatory and pain medication. Proctor was not medically cleared to return to work until July 15, 2015, when Doctor Timothy Gibson from Huntington Beach Orthopedics authorized his return to "restricted duty."



Photo depicting Proctor's knee injury.

Evidence Found at the Scene

On May 6, 2015, Forensic Scientific Division (FSD) Firearms Analysis Unit (FAU) Criminalists Alan Perez and Annette Woiwode responded to the scene and conducted an examination for ballistic impacts, trajectories and projectiles.

A total of 84 items were booked into evidence in conjunction with the investigation, including buccal swabs, discharged and live cartridge casings, a body camera and a coroner's kit.

LAC DOC Forensic Attendant Wendy Withers recovered evidence as she conducted her preliminary examination, including a Gun Shot Residue Kit, a Hair Standards Kit, and a Fingernail Standards Kit as well as a Bloodstain Card. All were booked into evidence.

The Sam Browne equipment belts of both Proctor and Kawahara, along with the belts' attachments and contents, were collected by FSD personnel at the scene and transported to the Hertzberg-Davis

Forensic Science Center.¹⁰² The items were swabbed by Perez for potential Deoxyribonucleic Acid (DNA) on May 12, 2015.



Kawahara's back up weapon.

Ballistics Evidence

Proctor was armed with an LAPD issued .40 caliber Glock, Model 22, semiautomatic pistol. The pistol was carried in an LAPD-approved single retention black leather holster worn on the right side of his equipment belt. Per standard LAPD protocol, Proctor surrendered his weapon to FSD Firearms Chief Forensic Chemist Vanessa Gould prior to leaving the scene of the shooting.

On June 18, 2015, Perez inspected the firearm. Perez determined the weapon was functional and the trigger pull values were within the range established by LAPD.

The FID investigation concluded that Proctor fired two rounds during the incident. Both expended cartridge cases were recovered at the scene. Perez concluded that the two casings recovered from the scene were fired from Proctor's service weapon.

Taser Evidence

Both Proctor and Kawahara wore Tasers on their belts during the incident. Neither officer deployed a Taser.

¹⁰² Kawahara's back-up weapon, which was worn in an ankle holster on his left ankle, was not collected or swabbed.

DNA Evidence

On November 4, 2015, FSD Serology/DNA Criminalist Kari Mar concluded her comparison of the DNA swabs taken by Perez and a reference sample collected from Glenn's blood.



Kawahara's service weapon and holster.

With respect to the following items, Mar was unable to obtain any DNA typing results: swabs of Kawahara's key clip and carabiner, outside surface of keepers, dark spot on Taser, swabs of Proctor's holster exterior, edges and safety strap, exposed areas of firearm, right most handcuff pouch, left most handcuff pouch, belt with clip and pouch, silver key clip and holder, black ring and holder, baton holder and exposed areas of baton, radio holder exposed leather, empty holder on Sam Browne belt, Taser holder and exposed areas of Taser, pepper spray holder, double magazine pouch and outside surface of keepers.

Mar concluded there was insufficient information for comparison for partial DNA typing results found on the following items: swabs of Proctor's recorder pouch and belt buckle/tag end, swabs of Kawahara's exposed area of firearm, outside of left most handcuff pouch, outside of right most handcuff pouch, Taser holster and exposed areas of Taser, and belt buckle/tag end. The firearm Mar is referring to is Kawahara's service weapon which was worn on his Sam Browne. Half of the alleles identified from the swab of the firearm are consistent with Glenn's profile.

Mar concluded that the following items contained partial profiles from an unknown male: swabs of Kawahara's exterior holster, edges and safety; swabs of Kawahara's baton holder and exposed areas of baton; swabs of Kawahara's radio holder exposed leather; swabs of Kawahara's pepper spray holder; and swabs of Kawahara's double magazine pouch. Mar opined that only one male was present based upon the fact that there were no more than two alleles at any one loci.¹⁰³ Due to

¹⁰³ A person's full DNA profile generally consists of two alleles at each of the loci tested. Some people only have one allele at one or more loci. The fact that there are not more than two alleles at any given loci does not necessarily

the fact that these were all partial profiles, it is possible that they are mixtures. Many of the alleles match those of Glenn. With respect to the holster, ten of the twenty-two alleles present are consistent with Glenn's DNA profile.

Mar concluded that the swabs from Kawahara's flashlight contained a mixture of at least two individuals, at least one of whom was male. Due to the complexity of the mixture, she was unable to opine whether or not Glenn's profile was present in the mixture. Many of the alleles present in this mixture match Glenn's DNA profile.

Based upon the results obtained from Mar's initial analysis, Glenn cannot be excluded as a possible contributor on multiple items including Kawahara's holster, flashlight, Taser, and various holders located on his Sam Browne belt. On February 19, 2016, after conferring with Mar, JSID requested that LAPD arrange for a DNA sample be taken from Kawahara, and send all the samples to a private laboratory for comparison.¹⁰⁴

LAPD collected a DNA sample from Kawahara, but rather than submit all of the items to a privately contracted laboratory, the items were again sent to Mar for comparison. On April 13, 2016, Mar concluded her analysis.

Mar concluded that the following items were consistent with the DNA profile of Kawahara: swabs of the exterior holster edges and safety, baton holder and exposed areas of baton, radio holder exposed leather, pepper spray holder and double magazine pouch. A review of Kawahara and Glenn's DNA profiles reveals that they share 11 alleles out of the 30 that would be present in a full DNA profile. Mar's second round of analysis still does not exclude Glenn from being a potential contributor to any of those items. Further, a comparison of Kawahara's profile to the mixture obtained from his flashlight leaves one allele that cannot be attributed to Kawahara. That allele is consistent with Glenn's DNA profile. The fact that the flashlight sample is definitely a mixture, which Glenn could be a contributor to, lends credence to a theory that other samples could also potentially be mixtures with Glenn as a contributor.

mean that there is only one person present, however. The samples taken in this matter were missing DNA at several loci. When there is a full profile present in a sample, an analyst can definitively conclude all the DNA came from one person based upon the amount of DNA present at each loci being consistent. Because there was no full profile seen in any of the samples in this matter, there is not enough information to say that all the DNA came from one person. As such, Mar would have to concede that it is possible that more than one person's DNA is included in each sample.

¹⁰⁴ Several of the laboratories that contract with LAPD have protocols which would allow them to better differentiate whether a sample is a mixture and what DNA in a mixture can be attributed to one person or another.

Genetic Locus Tested	Kawahara's Holster Item #44	Kawahara's Gun Item #45	Kawahara's Baton Item #46	BRENDON GLENN Reference Sample (Item #83)
D8S1179	12,14	14*	12,14	12,14
D21S11	30	ND	30*	30, 31
D7S820	12*	ND	ND	8, 12
CSF1PO	ND	ND	ND	10,12
D3S1358	16,17	16*	16,17	14,17
TH01	7, 9	ND	9*	8, 9
D13S317	11,12	ND	12*	9,12
D16S539	9,10	ND	ND	9,12
D2S1338	20	ND	20*	17, 23
D19S433	12,13	ND	12,13	12,15
vWA	14, 17	ND	14, 17	15, 16
TPOX	8	ND	8*	8,11
D18S51	12*	ND	ND	14,16
AMEL	X, Y	ND	X, Y	X, Y
D5S818	9,11	ND	11*	13
FGA	18*	ND	ND	22, 24

DNA chart regarding Kawahara's holster, gun, and baton.

Genetic Locus Tested	Kawahara's Handcuff Pouch Item #47	Kawahara's Flashlight Item #50	Kawahara's Radio Item #51	BRENDON GLENN Reference Sample (Item #83)
D8S1179	14*	12, (13), 14, (15)"	12, 14	12, 14
D21S11	30*	29, 30^	30*	30, 31
D7S820	ND	ND	ND	8,12
CSF1PO	ND	ND	ND	10,12
D3S1358	16*	16,17^	16, 17	14, 17
TH01	7*	(6), 7, 8, 9	7*	8, 9
D13S317	ND	11,12	ND	9,12
D16S539	ND	9,10^	ND	9, 12
D2S1338	ND	20*	ND	17, 23
D19S433	ND	12,13^	12, 13	12, 15
vWA	ND	14,17^	17*	15, 16
TPOX	8*	8^	8*	8,11
D18S51	ND	ND	ND	14,16
AMEL	ND	X, Y	X, Y	X, Y
D5S818	ND	9,11^	ND	13
FGA	ND	21*	ND	22, 24

DNA chart regarding Kawahara's handcuff pouch, flashlight and radio.

Genetic Locus Tested	Kawahara's Pepper Spray Item #52	Kawahara's Taser Item #54	Kawahara's Magazine Item #56	BRENDON GLENN Reference Sample (Item #83)
D8S1179	12, 14	12, 14	12, 14	12, 14
D21S11	30*	ND	30*	30, 31
D7S820	12*	ND	ND	8,12
CSFIPO	12*	ND	ND	10, 12
D3S1358	16,17	16,17	16,17	14,17
TH01	7, 9	7, 9	7*	8, 9
D13S317	11,12	12*	ND	9,12
D16S539	ND	ND	ND	9,12
D2S1338	20*	ND	20*	17, 23
D19S433	12, 13	12, 13	12, 13	12, 15
vWA	14*	ND	ND	15,16
TPOX	8	8*	8*	8,11
D18S51	ND	ND	ND	14,16
AMEL	X, Y	X*	X, Y	X, Y
D5S818	9*	ND	9*	13
FGA	ND	ND	ND	22, 24

DNA chart regarding Kawahara's pepper spray, Taser and magazine.

Genetic Locus Tested	Kawahara's Buckle/Belt Item #57	Kawahara's Recorder Item #60	BRANDON GLENN Oral Reference Sample (Item #83)
D8S1179	12*	14	12,14
D21S11	ND	ND	30, 31
D7S820	ND	ND	8, 12
CSF1PO	ND	ND	10,12
D3S1358	16,17	ND	14,17
TH01	ND	ND	8, 9
D13S317	ND	12*	9, 12
D16S539	ND	ND	9,12
D2S1338	ND	ND	17, 23
D19S433	ND	ND	12, 15
vWA	ND	ND	15,16
TPOX	ND	ND	8,11
D18S51	ND	ND	14, 16
AMEL	X*	X*	X, Y
D5S818	ND	12*	13
FGA	ND	ND	22, 24

DNA chart regarding Kawahara's buckle/belt and recorder.

All items that were submitted for testing were consumed during this analysis, rendering any analysis by another laboratory impossible.

On January 20, 2017, in an effort to obtain a definitive answer regarding the number of male contributors present on each of the items, as well as whether Glenn's DNA is present, JSID requested that LAPD arrange for Y-STR testing be done on the items mentioned above.¹⁰⁵

Mar completed her analysis of the Y-STR testing on April 6, 2017. Mar concluded that there was insufficient information to do any comparison with respect to Kawahara's firearm and belt buckle/tag.

Mar concluded that due to the complexity of the data, no comparison could be done as to the right most outside of Kawahara's handcuff pouch, flashlight and Taser holder.

Mar determined that Kawahara's left most handcuff pouch was consistent with Kawahara's profile.

It should be noted that even a lack of DNA evidence on any of the above-mentioned items does not preclude Glenn from having touched one or more of them. Mar would testify that a person does not necessarily deposit enough DNA when touching an item to result in their profile being reflected or recognizable in standard DNA testing. Only amounts of DNA above a certain threshold are considered when a profile is reported. The protocols for different laboratories vary as to what those thresholds are. Glenn's DNA could be present at some loci in amounts not reportable, or could be missing from some loci since none of the samples contained enough of anyone's DNA for a full profile. As such, Mar would have to concede that Glenn's DNA is potentially on each of the items. Without a full profile, Mar would also have to concede the possibility that the items could be mixtures, and Glenn would be included as a potential contributor.

LAPD Findings

On April 12, 2016, the LAPD Police Commission convened to determine whether or not Proctor's actions were within LAPD policy and procedures. During the hearing itself, and in documents released to the media which were subsequently widely disseminated, Proctor's compelled statements were made public. As a result of this disclosure, many of the attorneys and members of the LADA administration were exposed to those statements. As discussed in the sections regarding Proctor's compelled statements and the legal analysis section below, such statements cannot be used in any way to assist in the prosecution of Proctor. Neither the statements themselves, nor anything derived from those statements, can be part of any decision to file criminal charges.

As a result of the public dissemination of Proctor's compelled statements, the LADA's office was required to conduct a lengthy investigation to determine who within JSID and the LADA administration was exposed to the statements and who was not. Once attorneys within JSID and a member of the administration who had not been exposed to the statements were identified, those

¹⁰⁵ A Y-STR is a short tandem repeat found on the Y-chromosome which is inherited paternally. In general, all male relatives within a single male paternal lineage will exhibit the same Y-STR profile. Y-STR testing uses a different set of markers than standard DNA testing, and is frequently useful in determining whether two individuals who share alleles in standard testing are both present in a sample.

individuals were walled off from any information pertaining to or derived from Proctor's compelled statements. This non-compelled team did their own analysis and investigation into the officer-involved shooting without any knowledge of Proctor's statements or information derived from them. At the same time, a compelled team continued to investigate the matter with knowledge of Proctor's statements, to ensure that all relevant information was obtained. The compelled team was kept separate from the non-compelled so that there would be a team, free from any exposure, available to make a determination to file and to prosecute the matter if it was warranted.

Use of Force Expert

As part of the non-compelled team's investigation, a use of force expert was retained. Greg Meyer, an expert who worked as a police officer for 30 years and has been court-qualified as a use of force expert for 27 years, was retained by the LADA's office on April 20, 2017, to review only the non-compelled materials and provide an opinion as to whether or not Proctor's use of deadly force was reasonable.

After his review of the report prepared by the criminal section of LAPD FID, which contained no information about or derived from Proctor's compelled statements, all witness interviews other than those of Proctor, all audio and video recordings, and all photographs taken in the matter that were not taken as a result of Proctor's statements, Meyer prepared a 20-page report documenting his conclusions. That report was provided to JSID on June 18, 2017.

Meyer opined that "with respect to what occurred prior to the use of deadly force, the officers' demeanor and the tactics were appropriate for the circumstances they were summoned to confront. Their actions neither created, nor needlessly exacerbated, the developing situation that prompted the decision to effect an arrest." Meyer further concluded that "Glenn alone created a cascade of events that led to the initial use of non-lethal force to effect an arrest."

With respect to Proctor's use of deadly force, Meyer summarized his findings in a cover letter accompanying his report, stating, "Officer Proctor's first shot may be reasonable; but the second shot may not be."¹⁰⁶ His further in-depth analysis contained within the report, however, indicates that both shots were reasonable.

Meyer did not have access to Proctor's compelled statements, and as such, had "no basis other than speculation based upon our own training and experience to know, analyze and reach opinions about what fear Officer Proctor may have experienced that caused him to shoot." Having reviewed the video of the shooting and events that preceded it, as well as the witness statements regarding the incident, Meyer analyzed the need for deadly force in light of several factors. These factors included the seriousness of the suspected offense committed by Glenn, the level of threat or resistance presented by Glenn, the proximity or access of weapons to Glenn, the risk should Glenn escape, the time available for Proctor to make a decision, the availability of other resources, environmental factors, Proctor's training and experience and the relative size and strength of the two officers versus Glenn (officer versus subject factors).

¹⁰⁶ This conclusion that the second shot "may" not be reasonable, as opposed to "is unreasonable" is tantamount to a finding that there is reasonable doubt as to any potential argument regarding the lawfulness of Proctor's use of deadly force.

Meyer also considered psychological and cognitive factors. Meyer noted that, “Research has thoroughly documented that sensory distortions are a normal part of fear events. These variable factors - angles of observations, distractions, lighting conditions, experience, attention to detail, perceptions, memory formation/storage/recall, and other factors may affect people involved in the same incident quite differently. Those under stress may also react to contextual cues (as influenced by life experience and/or training) and confabulations (mentally ‘filling in the blanks’ with something you expect to see, but did not see, yet honestly believe you saw).”

Meyer noted that the differences among the perceptions of Kawahara and other percipient witnesses with respect to actions, positions and timing are “typical artifacts of eyewitness memories of fast-breaking traumatic events.” Meyer elaborated that, “Stress affects one’s ability to perceive, store and recall details,” and that, “Officers and witnesses often experience audio, visual and/or time distortions during such events.”

Meyer also emphasized the potential limitations of video evidence, including: the fact that a video may not capture the view of the involved officer, video may capture events and objects the officer did not see, video may not capture events and objects the officer did see, video does not capture objects and movement blocked from the camera lens, video may document very different lighting conditions than the human eye and video does not take into account the bio-mechanical, physiological and psychological aspects a human being may experience under stress as described above.

Having considered all of these factors, Meyer concluded that Proctor’s actions as seen on the surveillance video were consistent with his having observed a threat posed by Glenn. Specifically, Meyer noted that Proctor had “incremental reactions” in reaching for, then drawing, then assuming a close contact position with his service pistol, and these actions were “consistent with a developing perception of imminent danger.”

Meyer noted that Glenn’s left hand/arm “brushed against” Proctor’s firearm or holster approximately nine seconds before Proctor drew his service pistol. Meyer also noted the movements of Glenn’s right hand reaching back and grabbing Kawahara’s right upper thigh/hip area. In comparing the muzzle flash of the first shot to the movement, Meyer determined they were nearly simultaneous. The movement of Glenn’s right hand was sufficient, in Meyer’s opinion, to “reasonably excite ‘fear’” on Proctor’s part, especially once Glenn’s hand went into a “blind spot” where Proctor could no longer see its proximity to a weapon.¹⁰⁷ Meyer determined that Proctor’s first shot was objectively reasonable, if Proctor perceived an imminent lethal threat.¹⁰⁸

¹⁰⁷ Meyer did not consider Glenn’s left hand, because it is obscured in the video and no witnesses described being able to see where it was immediately prior to the shooting. Also, Meyer did not have access to Proctor’s statement.

¹⁰⁸



Still photo from surveillance video depicting Glenn's hand near Proctor's firearm or holster.



Close-up of Glenn's hand near Proctor's firearm or holster.

With respect to Proctor's second shot, Meyer noted that the time separating the two muzzle flashes was 1.1 seconds, which allowed an extremely brief opportunity to reassess the threat. Meyer also

considered the shorter time-frame from when Kawahara reacted to the first shot by disengaging from Glenn to the muzzle flash of the second shot. That span was approximately a half-second.

Meyer determined that given the officers' relative positions, Proctor "may not have visually re-acquired" Glenn's hand to determine whether he had a weapon or not. The half-second span before firing the second shot was "close to the reactionary gap."¹⁰⁹ As such, Meyer determined that Proctor "may have decided to fire the second shot after perceiving Glenn to be unaffected by the first shot and therefore still posing a deadly threat. If that were the case, Meyer opined that "Proctor's decision to fire the second round may have come too late to be recalled by the changing circumstances." Under those circumstances, the second shot was also deemed reasonable by Meyer.

Brendon Glenn

Brendon Glenn was 5'9" tall and weighed approximately 175 pounds on the date of the incident.¹¹⁰ His date of birth was July 24, 1985, making him 29 years old on the date of the shooting. Glenn had moved to the Los Angeles area from New York within a year before the incident, according to his uncle, Alan McGuirk.¹¹¹ Glenn did not have any documented gang ties or history of mental illness.

Glenn was identified by FBI No. 629884HC7. Glenn's criminal history from New York began on March 21, 2005, with his last recorded arrest on August 7, 2014. Glenn's arrest history consisted of charges including: Unlawful Imprisonment, Violation of a Protective Order, Contempt, Burglary, Assault, Resisting Arrest, Trespassing, Loitering, Larceny, Sale of a Controlled Substance, Possession of Controlled Substances (including heroin, cocaine and marijuana), Use of Drug Paraphernalia, Drinking Alcohol in a Motor Vehicle and multiple arrests for Aggravated Unlicensed Driving and Driving Under the Influence of Alcohol.¹¹² Glenn had four outstanding warrants for his arrest from Green Island Village, Albany City and the Troy Police Department in New York at the time of the incident. Glenn had a total of 18 arrests, 12 convictions, and 7 pending cases, as well as multiple bench warrants for failure to appear in court.

¹⁰⁹ The "reactionary gap" refers to a delay between when circumstances change (such as a suspect beginning to fall to the ground), and when an officer both perceives that change, and is able to modify their actions accordingly. In studies done of officers in complex situations, that gap can be as much as .6 of a second. These studies involve artificial "stressors" such as lights and sounds, and may underestimate the delay caused by real-life stressors according to researchers.

¹¹⁰ LAPD FID reports vary as to Glenn's height and weight (as do reports from other jurisdictions regarding Glenn's criminal history). The criminal report prepared by FID lists his height as 5'10" and his weight at 170 pounds. The administrative report prepared by FID lists his height as 5'11" and his weight as 175 pounds. The Coroner's report lists Glenn's height as 5'9" and his weight as 175 pounds. This memorandum uses the information collected by the Coroner's Office, as it appears to be the most reliable source of information.

¹¹¹ Detective Sanchez spoke to McGuirk telephonically on May 19, 2015.

¹¹² Detective Brausam contacted Sergeant Jim Holehan with the Troy City Police Department (TCPD) in New York on September 12, 2015, to ascertain the circumstances surrounding Glenn's 2010 conviction for resisting arrest. Holehan indicated that according to TCPD records, Glenn resisted arrest by running from police as he was about to be arrested for an outstanding warrant. The incident report prepared by TCPD states that Glenn would not provide his name to the responding officer and that a foot pursuit ensued when the officer attempted to arrest Glenn for the outstanding warrant.

A review of LAPD resources also revealed that Glenn had four citations issued to him by members of the LAPD between the dates of April 9, 2015 and May 4, 2015, for violating a noise ordinance and loitering. Glenn had no residence on file and was documented as a transient on the citations.

Prior “Violent” Conduct:

The following information is included in this memorandum solely because it is relevant evidence which would be admissible in defense of a prosecution of Proctor. As such, it must be considered in analyzing the appropriateness of Proctor’s use of force and whether or not there is sufficient evidence to prove his actions were unlawful.

Glenn had a history of “violent” conduct as defined in the Judicial Council of California Criminal Jury Instructions (CALCRIM). In determining whether or not Proctor’s belief that force was necessary to defend himself or others was reasonable, the finder of fact may consider evidence that Glenn threatened or harmed Proctor or others in the past. This evidence may be considered whether or not Proctor was aware of it at the time he concluded deadly force was necessary.¹¹³ Evidence of Glenn’s character for “violence” or “querulousness” is also admissible.¹¹⁴

On May 8, 2015, Glenn’s uncle, Alan McGuirk, called the front desk at LAPD Pacific Division. McGuirk indicated he was upset that the media was portraying Glenn as an innocent individual. McGuirk advised that Glenn had a violent temper with family members, which he could not control. McGuirk requested that the investigating detectives contact him, and left his contact information. Sergeant Art Gallegos forwarded the information to FID.

Detective Sanchez made telephonic contact with McGuirk on May 19, 2015. McGuirk advised Sanchez that Glenn had moved to California within the last year. McGuirk became aware that Glenn was in California when he saw a post on Glenn’s Facebook page approximately one and one-half months earlier.¹¹⁵ McGuirk indicated that at one point Glenn had been employed by the City of Troy in their sanitation department. McGuirk believed Glenn lost that job after approximately eight months due to “run-ins with law enforcement” and because he did not have a valid driver license, which was required to maintain the position.

McGuirk told Sanchez that Glenn “had a side that could be aggressive.” He related that he was aware through family members that Glenn had become “physical” with some of his family members, including his mother and step-father. McGuirk also relayed that he believed a police call was made for a domestic disturbance at the residence of McGuirk’s mother and Glenn’s grandmother, Ann McGuirk, when Glenn was living with her. McGuirk is Glenn’s mother’s brother.

¹¹³ CALCRIM No. 3470 provides that when a defendant claims self-defense, if the fact finder finds “that the victim threatened or harmed the defendant *or others* in the past,” that information may be considered “in deciding whether the defendant’s conduct and beliefs were reasonable.” (emphasis added)

¹¹⁴ California Evidence Code Section 1103 makes evidence of the character or trait of character of a victim of a crime for which the defendant is being prosecuted admissible, if the evidence is offered by the defendant to prove conduct of the victim in conformity with the character or trait of character.

¹¹⁵ McGuirk did not recall when Glenn posted a photograph of himself under the California sign on Facebook, but estimated that McGuirk saw it one and one-half months prior. McGuirk would periodically check Glenn’s Facebook page to see if there were any “updates.”

McGuirk indicated Glenn had no history of mental illness, depression or any physical ailments. McGuirk said Glenn had a drug problem, involving the use of crack, cocaine, Adderall, Soma, Oxycodone and marijuana as well as frequent use of alcohol.

McGuirk indicated that he was unaware that Glenn was living on the street. Glenn did not call or contact him for assistance, or in any way inform him that he was in trouble. McGuirk was not aware of other family members having been contacted by Glenn either.

McGuirk indicated Glenn had never served in the military to his knowledge, although he was aware of a rumor claiming he did on Facebook. When asked whether Glenn had any personal feelings regarding law enforcement officers, McGuirk mentioned some of Glenn's arrests, including "a highspeed chase down Alternate Route 7, which is one of the roads here in New York, that ended in a vehicle crash" and "some resisting arrest charges."

Timothy Pardue, a youth minister, was interviewed by LAPD FID Detective Chris Linscomb on May 5, 2015. Pardue told Linscomb he runs an establishment called "The Pad" in Venice. The Pad is a local center to support homeless youth. Glenn sought and received services from The Pad at one time, but was kicked out for engaging in physical altercations. Pardue also relayed that Glenn had been in multiple fights on Windward Avenue.

On April 29, 2015, at approximately 10:10 p.m., Officers Putrah and Rios were working Pacific Gang Enforcement Detail, and were dressed in full uniform and driving a black and white police vehicle. They were patrolling the area of Pacific Avenue and Windward Avenue when Glenn flagged them down, claiming he had been robbed.

Glenn told the officers that at approximately 9:50 p.m., he was on his bicycle in front of the businesses located on the northwest corner of Pacific Avenue and Windward Avenue. A male transient named Zackary approached him from behind and removed Glenn's cell phone from his rear-right pant pocket. Glenn felt the phone being taken and asked Zackary to return it. Zackary said, "What are you going to do about it?" Glenn replied, "Give me my fucking phone back!" Glenn and Zackary argued, and Zackary punched Glenn on his jaw. Glenn punched Zackary and took his phone back. Glenn indicated Zackary fled.

As Glenn was talking to the officers, they noted that he was "completely uncooperative, yelling, and demanding for officers to take a report." When the officers asked Glenn basic questions to determine whether a crime had occurred, Glenn repeatedly yelled, "Look at the video! It's all on video! Why do I have to say anything? I'm not a snitch!" Glenn also told officers, "I'm only doing this because I'm going to kick his ass when I see him again. It's going down. My hands are registered."

Rios advised Glenn that a police report would not protect him if he engages in criminal behavior. When Rios asked Glenn if he was willing to go to court to testify, Glenn replied, "No." Putrah retrieved the surveillance video from Big Daddy's Shack, located at 79 Windward Avenue. Putrah reviewed the video and observed only a physical altercation between Glenn and Zackary. Neither Rios nor Putrah observed any redness or swelling to Glenn's jaw. Rios asked Glenn if he desired medical treatment, and Glenn refused.

LEGAL ANALYSIS

The issue addressed by this memorandum is whether or not Proctor's use of deadly force was reasonable. A thorough review of the law and the evidence in this matter leads to the conclusion that there is insufficient evidence to prove that Proctor's use of deadly force in the altercation with Glenn on May 5, 2015 was not justified.

This memorandum does not address whether Proctor's actions violated LAPD policies and procedures. This office is aware that LAPD Police Chief Charlie Beck and the LAPD Police Commission determined that Proctor's actions violated LAPD Policy.¹¹⁶ Any administrative findings or discipline imposed by LAPD is extraneous to the findings in this memo, although it must be addressed to the extent that it has colored public perception of this incident. As detailed below in the section analyzing Proctor's statements in light of the other evidence and the law, the administrative findings were based upon what Chief Beck believed to be a discrepancy between Proctor's statements and the surveillance videos. It is not clear whether the video does, in fact, contradict any of Proctor's observations. Further, the law does not require that an officer be correct in his belief that deadly force is necessary, so long as his belief, mistaken or not, is reasonable.

Further, the standard of proof used in administrative proceedings is not the standard of proof used in criminal trials. A lower standard of proof is used to find actions outside of LAPD policy. Actions can therefore violate LAPD policy without constituting criminal conduct. A finding that a policy violation has occurred may also be based upon compelled statements. As discussed below, a criminal filing and prosecution may not utilize a compelled statement in any way. Proctor's statements will, however, be analyzed in this memorandum, because his statements are largely supported by the other evidence available. As such, they support a conclusion that there is insufficient evidence to support charging Proctor with any crime.

The fact that civil litigation regarding this incident has resulted in the City of Los Angeles paying a monetary sum to Glenn's family members is also irrelevant to the analysis of potential criminal liability.¹¹⁷

Relevant Areas of Law

¹¹⁶ This office is also in receipt of a letter from Chief Beck, dated December 23, 2015, wherein he urges that criminal charges be filed against Proctor. This letter had no bearing on the decision made in this matter, as our investigation and analysis of officer involved shootings is independent of the agency employing or investigating the officer.

¹¹⁷ Under California's civil negligence law, the reasonableness of a peace officer's conduct is determined in light of the totality of the circumstances, which includes an officer's conduct preceding the use of deadly force. *Hayes v. County of Los Angeles* (2013) 57 Cal.4th 622. However, "[t]he Fourth Amendment's reasonableness standard is not the same as the standard of reasonable care under tort law, and negligent acts do not incur constitutional liability." *Id.* at 639 (citing *Billington v. Smith* (2002) 292 F.3d 1177, overruled by *County of Los Angeles, California et al. v. Mendez et al.* 581 U.S. __ (2017)). Thus, *Hayes* does not apply in a criminal analysis, and faulty tactics or lack of reasonable suspicion are not properly considered when determining the reasonableness of a belief in the need to use force in self-defense and/or the defense of others by a police officer. The United States Supreme Court disavowed the use of any analysis other than the reasonableness analysis proscribed by the Fourth Amendment in *County of Los Angeles, California et al. v. Mendez et al.*, *supra*, stating, "The proper framework is set out in *Graham*."

Use of Force to Effect an Arrest

A peace officer who has reasonable cause to believe that a person has committed a public offense may use reasonable force to effect the arrest, to prevent escape, and to overcome resistance.¹¹⁸ Arrestees do not have a right to hinder or resist being arrested. If a person knows, or should know, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force to resist such arrest.¹¹⁹ It is a crime to resist, obstruct, or delay a peace officer in the discharge, or attempt to discharge, any duty.¹²⁰

Self-Defense

On-duty officers retain their right to act in lawful self-defense or defense of another. California law permits the use of deadly force in self-defense, or in the defense of another, if it appears that the person claiming the right of self-defense or the defense of another actually and reasonably believed he or others were in imminent danger of great bodily injury or death.¹²¹

The People have the burden of proving beyond a reasonable doubt that a defendant did not act in lawful self-defense or defense of another.¹²² It is not a defendant's burden to prove that force was necessary or reasonable. The People must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others. Absent direct evidence that an officer did not actually or reasonably believe in the need for force, circumstantial evidence must be used. If two reasonable conclusions can be drawn from circumstantial evidence, however, and one of those reasonable conclusions points to innocence, jurors are instructed that they must accept the one that points to innocence.¹²³

In protecting himself or another, a person may use all force which he believes reasonably necessary to prevent injury which appears to be imminent.¹²⁴ “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... 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.”¹²⁵

The Fourth amendment reasonableness test is, “an objective one: the question is whether the officer's actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”¹²⁶

¹¹⁸ California Penal Code section 835a.

¹¹⁹ California Penal Code section 834a.

¹²⁰ California Penal Code section 148.

¹²¹ *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also* CALCRIM No. 505 and California Penal Code section 197.

¹²² CALCRIM No. 3470.

¹²³ CALCRIM No. 224.

¹²⁴ CALCRIM 3470.

¹²⁵ *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

¹²⁶ *Graham v. Connor*, *supra*, 490 U.S. at 396.

In *Graham*, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident. “Thus, under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decisions of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.”¹²⁷

The test of whether an officer’s actions were objectively reasonable is “highly deferential to the police officer’s need to protect himself and others.”¹²⁸

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.¹²⁹

Actual danger is not necessary to justify the use of 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.¹³⁰

Police officers are not required to exhaust every possible alternative before using justifiable deadly force.¹³¹

Once an officer believes that deadly force is necessary, the officer does not have an obligation to stop firing his weapon until the perceived threat has ended. “If lethal force is justified, officers are taught to keep shooting until the threat is over.”¹³²

Mistake of Fact

A person is not guilty of a crime if he commits an act under an honest and reasonable belief in the existence of certain facts and circumstances which, if true, would make such an act lawful.¹³³ “An honest and reasonable belief in the existence of circumstances, which, if true, would make the act for which a person is charged an innocent act, has always been held to be a good defense.”¹³⁴ When a person commits an act based on a reasonable mistake of fact, his guilt or innocence is determined as if the facts were as he perceives them.¹³⁵

¹²⁷ *Smith v. Feland* (6th Cir. 1992) 954 F.2d 343, 347.

¹²⁸ *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1102.

¹²⁹ *People v. Jackson* (1965) 233 Cal.App.2d 639.

¹³⁰ *People v. Toledo* (1948) 85 Cal.App.2d 577.

¹³¹ *People v. Ceballos* (1974) 12 Cal.3d 470, *People v. Collins* (1961) 189 Cal.App.2d 575.

¹³² *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012.

¹³³ *People v. Raszler* (1985) 169 Cal.App.3d 1160, citing *People v. Osbourne* (1979) 77 Cal.App.3d 479. CALCRIM No. 3406.

¹³⁴ *People v. Lucero* (1988) 203 Cal.App.3d 1101.

¹³⁵ *Id.*, see also, *People v. Beardslee* (1991) 53 Cal.3d 68.

“Where an officer’s particular use of force is based on a mistake of fact, we ask whether a reasonable officer would have or should have accurately perceived that fact.”¹³⁶ Courts have warned against second-guessing the split-second judgment of a trained police officer merely because that judgment turns out to be mistaken.¹³⁷

The Use of Compelled Statements

In the present case, Proctor provided two compelled statements to FID detectives. Those statements were made under the compulsion of potential administrative discipline, and cannot be used against him in any subsequent criminal proceeding.¹³⁸ If Proctor had elected to remain silent, and had not provided statements to investigators, that silence could have been deemed insubordination and resulted in his termination from LAPD. He was warned of this at the beginning of each interview.

As noted, this evaluation included a review of his statements. His statements provide insight into his state of mind, but cannot be used to prosecute him. If Proctor were to testify in his own defense, his compelled statements could not be used to impeach him.¹³⁹

Any determination to file charges against Proctor would have to be made without considering his statements, or any information derived therefrom. Neither his statements, nor any investigation done, or evidence obtained as a result of his statements could be introduced in a prosecution against him. Any decision to initiate criminal proceedings would have to be derived from a source independent of Proctor’s compelled statements.¹⁴⁰

As discussed below, Proctor’s actions were analyzed both with and without consideration of his statements to FID. Analysis of the evidence independent of Proctor’s statements results in a finding that his actions cannot be proven to be unlawful beyond a reasonable doubt. Proctor’s statements were considered to provide additional information about whether he had an actual belief in the need for self-defense, and additional insight as to the reasonableness of that belief. A review of the evidence in light of his statements again results in a finding that his actions cannot be proven to be unlawful beyond a reasonable doubt.

Analysis Based on Admissible Evidence Absent Proctor’s Compelled Statements

A review of the admissible evidence requires that any and all threats or potential threats by Glenn to the safety of Proctor, Kawahara or any of the onlookers be identified and assessed for their reasonableness based upon the witness statements, videos, scientific analysis conducted in this matter and expert opinion provided by Meyer. Proctor’s subjective belief must be evaluated solely by his actions and demeanor as depicted in the various videos and witness accounts of the incident.

¹³⁶ *Torres v. City of Madera* (2011) 649 F.3d 1119, citing *Jensen v. City of Oxnard* (1998) 145 F.3d 1078.

¹³⁷ *McLenagen v. Kegan et. al.* (1994) 27 F.3d 1002, *Milstead v. Kibler* (2001) 243 F.3d 157.

¹³⁸ *Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822.

¹³⁹ *Mincy v. Arizona* (1978) 437 U.S. 385, *Kastigar v. United States* (1972) 406 U.S. 441, *New Jersey v. Portash* (1979) 440 U.S. 450, *California Government Code section 3303*.

¹⁴⁰ *People v. Gwillim* (1990) 223 Cal.App.3d 1254.

Events prior to police contact

Although the shooting is captured on video, a thorough analysis requires a review of the totality of the circumstances that led up to the shooting on May 5, 2015. Police involvement was required due to Glenn's behavior, resulting in a call to 9-1-1. Glenn can be seen in the surveillance video from the Bank of Venice initially approaching patrons outside the bar. Many people walk out of their way to avoid Glenn. Glenn follows a man into the establishment and sits at the bar. During a period of approximately half an hour, Glenn can be seen consuming multiple beverages, speaking to various individuals, standing inside the bar, stumbling, placing his head on the bar and placing his head in his hands as if inebriated, dropping his dog's leash (requiring a female employee to take control of the dog), and ultimately engaging in an argument with the same female employee, which results in his being forced to leave the establishment.

Although none of the employees present at Bank of Venice, as depicted in the video, were willing to speak to investigators, Nassar observed Glenn to be "very drunk." The 9-1-1 call is also illustrative of Glenn's conduct in that the caller described Glenn as "a little aggressive," and also expressed concerns regarding his dog. Glenn was refusing to leave the location and bothering the patrons of the establishment, and only left when one of the bartenders (presumably the woman he can be seen arguing with) "kicked him out." From the earliest evidence on the date in question, Glenn engaged in behavior which was deemed harassing and combative by those around him.

Initial Contact

When officers arrived to respond to the call from Bank of Venice, Glenn was with a group of individuals loitering on the sidewalk, blocking pedestrian traffic. Upon the officers' approach, two of the four individuals gathered their belongings and left. Glenn's response was far different. The first thing Kawahara observed was Glenn following a woman on the sidewalk, then telling her, "No one wants you anyway," apparently in response to his advances being declined.¹⁴¹ The portion of the interaction captured on video depicts Glenn as intoxicated, slurring his speech and staggering. Glenn is also loud, confrontational and at times angry.

Glenn's dog lunged at one of the men leaving the location, and Glenn began yelling loudly at the dog to, "back it up!" Then, rather than leave the dog with his female companion, Glenn brought the dog with him as he walked quickly towards the officers. When Proctor told him not to bring his dog, Glenn forcefully yelled at the woman still sitting on the sidewalk to "hold him," loudly and repeatedly, despite her verbal protests, as he dropped the leash on the ground.

When Proctor told Glenn to "grab his stuff and go," Glenn did not comply, but instead walked quickly towards the officers, stepping off the sidewalk into the street. Barrientos observed this behavior from outside the Townhouse Bar and felt that the way Glenn approached was "threatening to the officers." Glenn yelled at Proctor, "Don't be threatening my dog," then referred to Proctor as "boy." Both Proctor and Kawahara remained calm and professional.

¹⁴¹ This occurs right before Glenn can be heard to say "Get some love" on the recording.

Glenn then proceeded to throw his hands up in the air and refer to Proctor as “nigger.” Proctor remained calm, and again told Glenn to “grab his stuff and go.” When Kawahara explained that Glenn and his female companion had to move because they were blocking the sidewalk, Glenn began to berate him, saying, “So who’s paying you? Do you want a couple dollars?” as he reached around in his pant pockets. Although Glenn was irate, Kawahara remained calm. Proctor again asked Glenn to leave, and rather than do so Glenn began yelling “What’s the matter right now nigger?” as he moved toward Proctor. Proctor backed up, as seen by his shadow on the white vehicle in the video, trying to avoid a physical confrontation with Glenn. Glenn began stumbling backwards, and only turned his back on the officers when Proctor reached for his radio. Glenn’s gait was so unsteady; he was unable to remain upright without leaning against a pole.

Events Near Townhouse Bar

Glenn then proceeded toward the Townhouse Bar. On the east-facing video, Glenn’s interactions with various individuals are depicted. People turned away from him due to his drunk and unruly behavior. He approached a man and woman outside the bar and acted aggressively. Thomas described it as either the customer getting “annoyed” or Glenn getting “hostile.” The video shows Glenn yelling at the man, and at one point Glenn physically struck the man on his face. The man repeatedly pushed Glenn away. At one point Glenn approached the woman, who walked away from Glenn, placing the man in between them. She appeared to be in fear of Glenn. Glenn stumbled back towards the officers’ location, only to turn and again begin to yell and gesticulate at the man in an angry fashion. Although Glenn appeared to hug the man at one point, his contact with the man and woman was primarily aggressive. Once the man entered the Townhouse Bar, Glenn yelled outside the bar, drawing Petrovic’s attention. Barrientos observed that Glenn was “invading people’s space” and “startling” or “scaring” the patrons with his “loud” and “belligerent” ranting. Bryant also noted that Glenn was “belligerent” and “loud.”

Petrovic told Glenn to “back off,” but Glenn continued his aggressive behavior. Thomas then attempted to persuade Glenn to leave, and ultimately tried to physically direct Glenn away from the bar entrance. Rather than comply, an angry Glenn trapped Thomas’ hand under his arm, pulling Thomas towards him as Glenn backed up against the wall, resulting in Thomas pushing him to the ground. Observers can be seen on the video backing away from the altercation. As Kawahara and Proctor approached the location, it was apparent that Glenn was not leaving voluntarily and had started physically assaulting patrons and employees of the bar.

As Glenn was getting up, Kawahara knew Glenn had to be taken into custody or he would continue physically assaulting individuals near the bar. Kawahara felt they could not wait for additional units to arrive, as Glenn was posing a physical threat to Thomas and others near the bar entrance and the situation could “escalate.” Kawahara approached with Proctor following. When Kawahara ordered Glenn to turn around, Glenn did not comply. Proctor attempted to get Glenn to comply, telling him to follow Kawahara’s orders. Glenn did not follow orders, and Kawahara was forced to lay hands on him. Glenn’s resistance to Kawahara necessitated Proctor also getting involved. Despite the fact that they were two trained police officers, Glenn’s strength and resistance made it difficult for Kawahara and Proctor to get Glenn to the ground.

As they were taking him to the ground, the video depicts Glenn reaching his left arm under Proctor's right arm, grabbing Proctor's shoulder. Glenn's left hand drops off Proctor's shoulder, and in a sweeping motion, appears to brush against the front bottom area of Proctor's service weapon.

It is apparent from the video that Glenn is physically resisting the officers. The officers were eventually able to get Glenn to the ground, covering a considerable distance from the initial location where they attempted to detain him. Once on the ground, Glenn was rolled onto his stomach and officers attempted to secure his hands behind him to handcuff him and take him into custody.

Attempts to secure Glenn's hands behind his back were also unsuccessful because Glenn resisted the officers' efforts. Proctor can be seen on the video placing his right knee on Glenn's back in an effort to keep him down. Kawahara also indicated he placed his left knee on Glenn to secure him, which is partially visible in the video. Multiple witnesses saw Glenn's hands "flailing" as officers attempted to handcuff him. Kawahara described Glenn as "tensing up" his right arm in an effort to keep Kawahara from getting it behind his back. Barrientos observed Glenn "moving his body around" and "trying to shake the officers off." Sweedler described Glenn as "resisting arrest" and "trying to fight" the officers. Sweedler further stated that Glenn seemed to be "overpowering" the officers. Bryant thought punches or elbows might be flying, although he could not tell if Glenn was actually striking the officers. Campbell described Glenn as "definitely resisting arrest." As detailed above, Glenn's conduct in resisting arrest is a crime. Onlookers such as Thomas described the officers' conduct up to this point as not "doing anything wrong." Thomas indicated neither Proctor nor Kawahara was "aggressive." Meyer also concluded that the force used by the officers in attempting to effect an arrest was reasonable and that the "cascade of events" was attributable to Glenn's behavior alone.

Events Immediately Prior to or at the Time of the Shooting

As depicted on the video, Kawahara and Proctor struggled to keep Glenn on the ground and get his hands behind him. This struggle lasted approximately seven seconds before Glenn was able to bring his legs under his body and push up, despite having the weight of two men on his back. Proctor was thrown off Glenn's back, resulting in an injury to his knee. Kawahara was forced to take his knee off of Glenn's back as he was being lifted in the air during Glenn's ascent and feared he would lose his balance. Kawahara continued to use his body weight to try to hold Glenn down, but was not successful.

Kawahara initially believed he still had control of Glenn's right hand at this point. When shown the video, Kawahara realized Glenn had managed to wrap his right arm around Kawahara's thigh. Kawahara could not see where Glenn's left hand was during this period of time.

Thomas observed Glenn "somehow" getting his hands "back in front of him," and saw Proctor "slip off" Glenn's back immediately prior to Proctor un-holstering his service weapon. Thomas could not see what Glenn's hands were doing, and did not realize Glenn's right arm was wrapped around Kawahara's right leg until he viewed the video. Nino also saw Glenn "trying to push back up." Nino believed that Glenn had leverage on the right side and was using the hand he had

freed to push up. Nino could not see Glenn's hands. Barrientos also saw Glenn use his hands to push up, shortly before Proctor stood and un-holstered his weapon. Barrientos did not see what caused Proctor to stand, but noted that "something happened." Barrientos was unable to see Glenn's hands, as were Bryant and Tellez-Hernandez.

At this point, the east-facing video shows Proctor stepping back and placing his right hand on his holstered service weapon. Kawahara hovers over Glenn as Glenn continues to rise closer to a standing position. Glenn's right arm can be seen reaching back toward Kawahara's leg. Glenn's left hand is not visible in the video, but based upon their relative positions, was likely on Kawahara's left side (where both his service weapon and his back-up weapon were holstered.) Proctor un-holsters his service weapon, holds it down to his right with the muzzle facing the ground, and appears to be moving in an effort to assess the situation.

First Shot:

The east-facing video then shows Proctor raising his weapon along his torso and firing one round in a downward direction at Glenn's lower left rear flank.

Nino described Glenn as moving his arms while on the ground, and stated "as he's trying to get up, his hands go behind his back." Based on the video, that would place Glenn's hands somewhere near Kawahara's Sam Browne, where both his Taser and service weapon were located. Nino further stated that it "did not seem like a malicious shooting." Petrovic did not see what Glenn was doing, but "heard something like more resisting really fast right before the shots," indicating that some action on Glenn's part precipitated Proctor's actions. Barrientos also commented that something happened to change the "energy." Proctor "seemed to be motioned by something," and that created "the need to shoot him twice." Thomas noted that at the time Proctor fired his weapon, Glenn was pushing himself up and "fighting," while Kawahara was still "struggling very close" to Glenn. Campbell described Glenn as "grappling with his hands." Sweedler described Glenn as "throwing his arms around," and "being crazy resisting." Sweedler felt that Glenn was "overpowering" the officers and believed Glenn may have gone for a weapon, although he did not see Glenn "consciously" reach for one.

The timing of Proctor reaching for, un-holstering and firing his weapon is consistent with Glenn's movement toward Kawahara's right side, and possibly his left. Kawahara was never asked whether Proctor was aware he was left-handed and that his service weapon was on the left. Since the two had only worked together for approximately two weeks, Proctor may have believed Kawahara's service weapon was worn on his right. Even if Proctor had correctly identified the weapon as a Taser, a Taser or stun gun can cause great bodily injury and, in the hands of a criminal, may constitute a deadly and dangerous weapon.¹⁴²

Kawahara's service weapon was holstered on the left side of his Sam Browne, and his back-up weapon was on his left ankle. Glenn's left hand was likely in close proximity to either weapon at the time the first shot was fired. The fact that Glenn had physical control of Kawahara, and was throwing him off balance, could also result in injury to Kawahara, or onlookers should one of Kawahara's firearms become dislodged. Glenn may have grabbed either firearm. The video

¹⁴²*People v. Villatoro* (2011) 54 Cal.4th 1152, 194 Cal.App.4th 241.

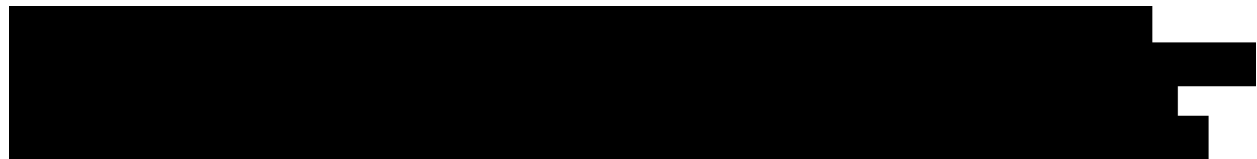
shows that Kawahara immediately checked his service weapon after the shooting, consistent with a sub-conscious acknowledgement that it may have been tampered with. Kawahara's back-up weapon was exposed, indicating it had been touched during the altercation in some fashion. LAPD did not swab Kawahara's back-up weapon, so no DNA comparison could be done. The DNA analysis cannot exclude Glenn from being part of potential mixtures on the items found on Kawahara's Sam Browne belt. A visual comparison, by even a lay person, demonstrates that many of the alleles found on Kawahara's service weapon and holster could be attributed to Glenn. An expert could reasonably conclude that Glenn's DNA is present on the items.

Even if Glenn was not actually reaching for any of Kawahara's weapons, given the struggle that was ongoing, Glenn's movement may have caused Proctor to reasonably fear that he was reaching for a weapon. Apparent danger is sufficient to justify the use of deadly force. Here it would not be unreasonable for Proctor to fear that Glenn, who had demonstrated all evening that he was combative, angry and resisting officers' efforts to arrest him, would attempt to disarm Kawahara. Even if Proctor was mistaken, such a mistake would not be unreasonable. Given the amount of movement by both Glenn and Kawahara during the struggle, it would not be unreasonable to see movement of either individual and believe it was Glenn's hand near a weapon. Kawahara's exposed skin near his back-up weapon, for example, could easily be mistaken for Glenn's hand or arm. Given the rapidly evolving events, Glenn's seeming to resist "at all costs," and his overt hostility toward patrons and employees of the bar, as well as the officers, it would not be unreasonable to believe that Glenn had a nefarious purpose in his movements and would grab a weapon and use it to effect his escape.

A belief in the need to defend against Glenn is also bolstered by Glenn's past history of violence. Glenn's prior acts of violence and resistance towards law enforcement, civilians and his own family members is significant in that it tends to support a finding that Proctor's fear was reasonable. Glenn repeatedly engaged in acts of aggression and violence on the very street where this incident occurred, resulting in his no longer being able to avail himself of the services at The Pad. Glenn also had a history of alcohol and drug abuse which a family member indicated led to a "violent temper" and aggression on Glenn's part. On the night of the incident, multiple witnesses reported that Glenn was profoundly intoxicated, belligerent and aggressive, consistent with his history. Glenn himself told officers he was dangerous, and that his "hands were registered" during a contact in the same neighborhood shortly before this incident. These are facts which, when coupled with the specific facts in this case, could support Proctor's belief in the need for the use of deadly force.

From the video it is apparent that Proctor observed something he believed to be a threat. He changes position and looks repeatedly before firing his service weapon (the "incremental reactions" described by Meyer). Proctor's decision was made during a physical struggle, with very little time to act. Kawahara was clearly winded from the altercation, as demonstrated by the audio recording of his request for back-up and an RA. Proctor was undoubtedly similarly exhausted, and also injured from Glenn having thrown him off his back. Kawahara could not see what Proctor was doing during the struggle, but heard him "grunting," which is indicative of physical exertion. Proctor was not obligated to use non-deadly force, and was likely unable to re-engage in the struggle due to his injury (which resulted in him being unable to return to work for over two months).

Glenn also fought officers once on the ground, creating a whirlwind of movement and resistance. Various onlookers were confused as to whether punches were being thrown, where Glenn's hands were at various times and whether Glenn was standing up because he had been handcuffed or was standing as part of his effort to resist. Multiple witnesses' perceptions were shown to be inaccurate in light of the video. Their vantage points, or the stress of the event, clearly caused misperceptions consistent with the sensory distortions described by Meyer. Neither the video nor any witness had the same vantage point as Proctor. Further, no witness stated that Glenn was not attempting to grab one of Kawahara's weapons. Sweedler believed that Glenn may have been "going for a gun." Bryant described Glenn as "threatening," and "really coming for the officers." Given these facts, Proctor's belief that Glenn posed a threat of great bodily injury or death to himself, his partner, or onlookers was likely not unreasonable. As such, there is insufficient evidence to prove that his use of deadly force to stop the threat was not justified.



From the surveillance video it is clear that some action on Glenn's part caused Proctor to step back, place his hand over his service weapon, re-assess the situation and move his head to see something and ultimately un-holster his service weapon. Proctor's movements and facial expressions are consistent with Proctor believing Glenn posed an imminent threat.

Immediately after the shooting, Proctor rendered aid to Glenn for over a minute. Witnesses described Proctor as pale and distraught. His reaction to having shot Glenn further corroborates that his state of mind was one of fear at the time he fired the shots. Proctor did not appear to disregard Glenn's life or well-being, but attempted to save him.

The period of time between Kawahara first laying hands on Glenn and Proctor firing his service weapon is less than one minute. During that period of time Proctor was attempting to diffuse Glenn's anger and calm him down, get Glenn to comply with his and Kawahara's orders, and control Glenn physically (first near the entrance of the bar and later as he took Glenn down and when Glenn was on the ground), all as Glenn repeatedly resisted the officers' efforts. As Proctor very quickly did each of these things, acting and reacting, he also had to assess the nature of the threat posed by Glenn in a situation that was changing rapidly. Based upon the statements of witnesses and the video itself, Proctor appears to have seen what he believed was an imminent threat. There is no evidence that Proctor had any other motive to shoot Glenn. The law instructs that great deference should be given to an officer's perception that a threat is imminent. The law further instructs that an officer's perception at the time is not subject to 20/20 hindsight.

Glenn was given multiple opportunities to leave the location. Glenn chose to be confrontational and aggressive with civilians and the officers. From the initial contact, Glenn was "threatening" in the manner in which he quickly approached the officers, startling them according to Barrientos. Glenn then yelled and hurled racial epithets at them. Proctor's response was to try to calm Glenn down and get him to leave. Neither officer responded with hostility, aggression or force. Proctor actually physically backed away from Glenn and reached for his radio. Glenn

then elected to harass patrons and engage in a physical altercation with Thomas. When the officers intervened and attempted to get Glenn to leave, Glenn refused to turn and face the wall, put his hands behind his back or go to the ground. Neither Proctor nor Kawahara acted in a fashion demonstrating a desire to use force against Glenn, but Glenn's resistance made it unavoidable.

Finally, a trained expert retained by this office opined that Proctor's actions depicted on the video were indicative that Proctor observed a threat posed by Glenn, and his "incremental reactions" in reaching for, then drawing, then assuming a close contact position with his weapon were "consistent with a developing perception of imminent danger." Meyer's ultimate conclusion is that Proctor's actions in firing the first shot were reasonable under the circumstances. Given Meyer's credentials and background, his opinion would qualify as "a reasonable officer" in opining that a reasonable officer in Proctor's position would believe in the need for deadly force. Accordingly, it cannot be established beyond a reasonable doubt that Proctor's first shot was unlawful.

Second Shot:

After the first shot, Proctor leaned back, and dropped his left hand from Glenn's shirt. Glenn began falling backwards. Proctor fired a second round in a downward direction towards Glenn's lower flank area. Simultaneously, Kawahara broke contact with Glenn and staggered backward. From the video it appears that the first shot did not register right away with Kawahara. Similarly, none of the onlookers seem to react until after a second shot is fired. A delayed response can be seen by everyone portrayed on the video. None of the witnesses told investigators that Proctor fired the second shot after Glenn was already falling to the ground. In fact, Bryant (the witness with the closest view to that of Proctor), believed that the first shot did not affect Glenn at all. Thomas observed Glenn fall "straight back," only after the second round was fired.

A total of one and one-tenth of a second elapsed between the shots. Based upon the factors discussed by Meyer, it is reasonable to believe Proctor did not process the minimal effect the first shot had on Glenn before firing the second shot. If Proctor did not perceive that Glenn was falling downward and believed the threat still existed, he was legally entitled to continue shooting until the threat had ended.¹⁴³ Meyer also concluded that Proctor's actions would be reasonable under those circumstances. Given those facts, it cannot be established beyond a reasonable doubt that Proctor's second shot was unlawful.

Analysis Including Proctor's Statements

This section will only address additional information regarding Proctor's observations and state of mind at the time he fired his weapon (as detailed in Proctor's compelled statements), and how that information is corroborated by the other evidence in this matter. Because a prosecution cannot be based on Proctor's statements, any inconsistencies would not be admissible. Proctor's

¹⁴³ *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012

statement, however, is fundamentally consistent with the statements of witnesses, video and other evidence collected in this matter.

Initial Contact

[REDACTED]

Actions Near the Townhouse Bar

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Proctor had to make a split-second decision under circumstances where his ability to view the situation was hampered by both the lighting and the rapid nature of the movements taking place. Glenn was unpredictable, physically strong and under the influence of both alcohol and marijuana. Glenn behaved in a highly aggressive and resistant fashion, lifting both officers off of the ground, forcing Proctor off of his back, causing Kawahara to lose his balance, and physically grabbing Kawahara despite having been ordered repeatedly to put his hands behind his back.

A duty to file criminal charges exists only when our office determines that the admissible evidence is of such compelling force that it would warrant a conviction after considering the most plausible, reasonable and foreseeable defenses. That is not the case here. The evidence considered is insufficient to prove that Proctor's actions were unjustified beyond a reasonable doubt.

CONCLUSION

Accordingly, we find that there is insufficient evidence to prove that Officer Clifford Proctor acted unlawfully in self-defense and in defense of others when he used deadly force against Brendon Glenn. We are closing our file and will take no further action in this matter.