

Non-Fatal Officer Involved Shooting of Viren Pierre Moret

Glendale Police Department

Detective Chad McDonald #20963

J.S.I.D. File #18-0358



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

April 19, 2022

MEMORANDUM

TO: CHIEF CARL POVILAITIS
Glendale Police Department
131 North Isabel Street
Glendale, California 91206

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

SUBJECT: Non-fatal Officer Involved Shooting of Viren Pierre Moret
J.S.I.D. File #18-0358
G.P.D. File #18-12608

DATE: April 19, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 21, 2018, non-fatal shooting of Viren Pierre Moret by Glendale Police Department (GPD) Detective Chad McDonald. We have concluded that Detective McDonald acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 6:21 p.m. on August 21, 2018. The District Attorney Response Team was given a briefing regarding the circumstances surrounding the shooting by GPD Robbery-Homicide Detective Christopher Krivak.

The following analysis is based on investigative reports, radio communications, crime scene diagrams, photographs, surveillance video, and body worn video submitted to this office by Detective Krivak.

FACTUAL ANALYSIS

Summary of the Facts

On August 21, 2018, members of the U.S. Marshalls Fugitive Task Force,¹ were briefed in preparation to locate and apprehend Viren Pierre Moret. Moret was a parolee at large with outstanding warrants. According to California Department of Corrections Agent Timothy Ohno,² Moret had been involved in armed robberies, was considered armed and dangerous, and was known to flee from police. Moret's location was unknown at the time so the Task Force split their teams to conduct surveillance at five different locations.

¹ The Task Force included officers/agents from GPD (Sergeant Manuel Fernandez, Detective Justin Darby and Detective Chad McDonald), Pasadena Police Department (Corporal William Broghamer) and California Department of Corrections and Rehabilitation (Agent Timothy Ohno).

² Agent Ohno is familiar with Moret based on a previous arrest.

During the operation, Moret was observed driving a gray colored Audi. GPD Detective Chad McDonald attempted to follow him but lost him on the freeway despite the assistance of an airship. Moret was eventually located in his vehicle parked on Holly Street near De Lacey Avenue in the city of Pasadena.³ Detective McDonald arrived at the scene at approximately 5:00 p.m., and a decision was made by the Task Force that they would apprehend Moret on the street by boxing in his vehicle.⁴

McDonald was the lead vehicle in charge of pulling up directly in front of Moret's vehicle. Ohno was in charge of pulling up right next to Moret's vehicle while Fernandez was to park behind. Broghamer would be the trail car responsible for filling in any weak spots.



Figure 1. Still frame from the airship surveillance video depicting the initial contact with Moret.

As McDonald pulled in front of Moret's vehicle, Moret drove his vehicle in reverse and pushed the vehicle behind him approximately three to four feet backwards.

³ Holly Street is an East/West street, with three eastbound lanes and one westbound lane. Moret was parked on the south side of Holly Street west of De Lacey Avenue. This is a commercial area with a multi-level parking lot with entrance and exit ramps on both Holly Street and De Lacey Avenue.

⁴ There were two civilian cars parked directly behind Moret's vehicle. See Figure 1 above.



Figure 2. Still frame from the airship surveillance video depicting Moret’s vehicle colliding into a vehicle behind him.

Moret proceeded to drive his vehicle forward crashing into McDonald’s vehicle while McDonald stood outside his vehicle.



Figure 3. Still frame from the airship surveillance video depicting Moret’s vehicle crashing into McDonald’s vehicle.

The force of the collision caused McDonald's vehicle to push McDonald back.



Figure 4. Still frame from the airship surveillance video depicting McDonald's vehicle pushing McDonald backwards.

Moret drove his vehicle in reverse again and then forward colliding into McDonald's vehicle a second time. As Moret continued to push McDonald's vehicle to the side and toward McDonald, a muzzle flash appeared near McDonald.⁵ Meanwhile, Darby drove his vehicle in a westbound direction towards Moret's vehicle.



Figure 5. Still frame from the airship surveillance video depicting a muzzle flash near McDonald.

⁵ The helicopter surveillance video captured three flashes in succession.

Moret's vehicle came to rest after colliding with the front of Darby's vehicle. Seconds later, Moret exited the front passenger door of his vehicle and ran westbound on Holly Street out of sight.



Figure 6. Still frame from the airship surveillance video depicting Moret running away.

Surveillance video in the area captured Moret running into a nearby multilevel parking structure located at 75 Fair Oaks Avenue. [REDACTED] was driving his silver Audi on the third floor when Moret asked him to drive him down to the first floor of the structure. [REDACTED] agreed and Moret entered and sat in the front passenger seat. As [REDACTED] approached the first floor, he observed numerous police officers near the entrance/exit. [REDACTED] stopped his car and asked Moret if the police were looking for him. Moret said yes, so [REDACTED] exited his car with his car keys and raised his hands up. Moret moved over to the driver's seat but could not start the car. Moret was subsequently arrested by the police without further incident.

Medical Examination

Moret was transported to Huntington Memorial Hospital for a gunshot wound to the upper thigh of his left leg. He was admitted in stable condition. Surgery was not required, and he was given pain medication. After he was medically cleared, Moret was booked for assault on an officer.⁶

⁶ Moret was charged with three counts of assault on a peace officer in case number GA104155 on August 21, 2018. On February 7, 2019, the case was consolidated into case BA456220 where he was previously charged with multiple counts of burglary and robbery. On May 29, 2019, Moret pled no contest to one count of second-degree robbery,

Detective McDonald's Statement

On August 28, 2018, McDonald, accompanied by his attorney Stephen Chulak, provided a voluntary statement to GPD Detective Krivak. McDonald stated that on August 21, 2018, he had a morning Task Force briefing on Moret in order to apprehend him for various robbery warrants. Ohno relayed to everyone that Moret was considered armed and dangerous and was known to flee from police.

During the operation, McDonald was wearing plain clothes with a tactical vest covering his chest with "Police" patches affixed to the front and back of his chest and a badge affixed to the front. McDonald observed Moret driving a gray colored Audi. An airship was requested to assist in locating Moret, but law enforcement lost sight of him on the freeway. Sometime later, Darby located Moret inside the Audi parked in the area of Holly Street and De Lacey Avenue.

McDonald arrived on scene at approximately 5:00 p.m. Fernandez did a drive by of Moret's Audi and confirmed that Moret was still sitting inside the vehicle. McDonald was the lead vehicle in charge of pulling directly in front of Moret's vehicle so Moret could not drive forward and flee. Ohno, Fernandez and Broghamer would assist McDonald in blocking in Moret's vehicle. McDonald parked his vehicle and heard a crash. McDonald exited his vehicle and saw Moret had backed his vehicle into the car parked behind him. McDonald moved to the rear of his vehicle when he heard Moret's vehicle revving. At this time, McDonald decided to move to the driver's door area of his vehicle because he believed Moret was going to drive through his vehicle to escape and potentially push McDonald's vehicle on top of him. Moret slammed into his vehicle so violently that it pushed McDonald's vehicle into him causing him to be pushed back. McDonald believed Moret was willing to do anything, including running him over, to get away and escape. McDonald saw Moret's vehicle back up a second time and begin to drive forward towards him. In response, McDonald drew his duty weapon and fired approximately four to five rounds at Moret.⁷ McDonald believed Moret was going to run him over.

McDonald said as Moret hit his vehicle the second time, McDonald's vehicle struck him causing him to be pushed back again. Moret continued to drive forward but was stopped after he slammed head-on into Darby's vehicle. McDonald said the incident happened so fast and that he believed he was the only one outside his vehicle at the time Moret started slamming into his vehicle. McDonald did not believe that the threat had completely stopped until Moret slammed into Darby's vehicle.

Sergeant Fernandez's Statement

Fernandez stated he was the supervisor on the scene of the incident. Fernandez was wearing a tactical vest with "Police" clearly visible on the front and back with his badge affixed. Upon their arrival, the game plan was that McDonald would pull his vehicle in front of Moret's vehicle to block him in. Ohno's assignment was to pull alongside Moret and Fernandez was to pull up to the rear. Fernandez had his emergency lights on when initiating the stop on Moret. As Fernandez stopped his vehicle, he observed Moret's vehicle travel in reverse at a high rate of speed and crash into a vehicle parked behind him. Moret drove forward and slammed into McDonald's vehicle.

admitted the gun enhancement pursuant to Penal Code Section 12022.53(b) and his prior strike. He was sentenced to 22 years state prison. The assault on the peace officer charges were dismissed as part of the disposition.

⁷ Ballistic evidence shows that McDonald fired four times.

Moret reversed again and then drove forward hitting McDonald's vehicle a second time. Moret reversed again and attempted to drive forward up the curb. Darby drove forward to block Moret's path and both vehicles collided into each other. Darby had his emergency lights and sirens on when he drove toward Moret. Fernandez was preparing to run toward McDonald to assist. Fernandez feared for his life as well as his partners' lives, so he ran back to his vehicle. While running back, Fernandez heard approximately five gunshots fired by McDonald. After the shots were fired, he observed Moret exit the front passenger door of his vehicle and run westbound on Holly Street out of sight.

Agent Timothy Ohno's Statement

Ohno is a Special Agent with the California Department of Corrections and Rehabilitation. Ohno wore a green tactical vest that had "Police" patches affixed to it. Ohno is familiar with Moret based on a previous arrest. Ohno stated that when he arrived in the area, they decided that McDonald, Fernandez and himself would box Moret in using their vehicles. Ohno's vehicle was not equipped with emergency lights or sirens but Darby had his emergency lights and sirens on. Ohno believed McDonald also had his vehicle's lights and sirens activated. After pulling up next to Moret's vehicle, Ohno exited his vehicle and heard officers yelling "Police!" and to "Stop!" or "Turn off the car!" Moret looked at the officers and immediately began to reverse into a vehicle parked behind him. Moret then drove forward into McDonald's vehicle which pushed McDonald's vehicle further into the street while McDonald was standing outside. Moret continued to push McDonald's vehicle into him just before colliding into Darby's vehicle. Sometime during this time frame, Ohno heard several gunshots that he assumed were from McDonald. Moret's vehicle was moving at the time he heard shots fired, but he does not recall if Moret was traveling forward or backwards. Moret's actions were putting officers and others in danger and Ohno was in fear for his partner's safety. Ohno gave chase once Moret exited his vehicle and started to run.

Detective Justin Darby's Statement

Darby stated that they were looking for Moret because he was a parolee at large with multiple warrants. Darby was wearing a green outer vest carrier with "Police" patches affixed to the front and back of the vest and a badge affixed to the front. When Darby arrived in the area, he observed multiple Marshall vehicles surrounding Moret's vehicle. Darby turned on his emergency lights and sirens and drove toward Moret's vehicle head on when he saw Moret's vehicle crash into McDonald's vehicle pushing it into the street. Darby saw Moret try to drive up the sidewalk past McDonald's vehicle, so he hit Moret's vehicle head on because he feared for the safety of pedestrians on the sidewalk. Darby heard approximately three gunshots as he collided with Moret's vehicle. At this time, McDonald was standing outside the driver's door of McDonald's vehicle. Darby did not see McDonald fire, but heard gunshots. Darby recalled seeing many vehicles with their emergency lights and sirens activated, but could not recall specifically which ones they were. Darby chased Moret once Moret exited his car and started running.

Corporal Broghamer's Statement

Broghamer stated that the plan was to arrest Moret on the street by boxing in his vehicle. Corporal Broghamer wore his black bullet proof vest that had his US Marshalls and Police patches affixed to it. Broghamer was to be the last vehicle that would fill in any weak spots when the other officers approached. He turned on his emergency lights but not his siren when he approached Moret's

vehicle. Darby and Fernandez activated their emergency lights and sirens. Broghamer heard various officers yelling “Police!” and “Stop the car!” Broghamer approached and saw Moret ramming his vehicle into vehicles behind and in front of him numerous times. McDonald was standing outside the driver’s door of McDonald’s vehicle at the time Moret was ramming his vehicle into it. Broghamer believed that McDonald was in a dangerous situation with Moret ramming his vehicle, so he ran around to approach Moret’s vehicle. As Broghamer approached, he did not see McDonald, which led him to assume McDonald had been knocked to the ground. At this time, Broghamer heard approximately three gunshots while Moret’s vehicle continued to move. Broghamer did not see who fired but saw Moret leaning over in the car. Moret exited his car and started running away.

██████████’s Statement

██████████ stated that he was parked and sitting in the driver’s seat of his white Volkswagen vehicle on the south curb of Holly Street just behind Moret’s Audi. His thirteen-year-old brother ██████████ sat in the front passenger seat and they were both waiting to pick up their parents from a building nearby. ██████████ observed police vehicles pull up parallel next to Moret’s vehicle. ██████████ saw a police officer exit his vehicle with his gun drawn and ordered the suspect not to move and to stay in his seat. ██████████ recognized the individual with a gun to be a police officer because he was wearing a police vest. At that point, he observed Moret’s vehicle suddenly reverse and collide with his car. He and his brother lowered themselves in their seats. ██████████ did not see what occurred but he did hear approximately three gunshots.

██████████’s Statement

██████████ stated he was sitting in the front passenger seat of his brother’s white Volkswagen vehicle parked on the south curb of Holly Street waiting to pick up their parents. While waiting in their car, he observed two police vehicles pull up next to the Audi that was parked directly in front of them. ██████████ saw the Audi reverse at a fast pace and collide with their vehicle. ██████████ heard tires screeching but was not sure where it was coming from. ██████████ saw a police officer pointing a gun at the Audi. ██████████ told ██████████ to duck down, which he did. ██████████ did not see what occurred after he ducked down but heard police officers ordering the suspect to put his hands up. ██████████ knew these were police officers because they were wearing vests with “police” written on the front. ██████████ recalled seeing one of the police vehicles with their red and blue emergency lights activated. ██████████ heard noises which could have been gunshots, but was not sure.

Viren Pierre Moret’s Statement

Moret did not provide a statement to the police. However, the jail calls he made after his arrest indicate that he knew he was being followed by the police throughout the day. Moret also admitted that he crashed into one of the police vehicles in order to escape.

LEGAL ANALYSIS

The Law

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

Analysis

The evidence reviewed in this investigation shows that Moret, a parolee at large with outstanding robbery warrants, drove his vehicle in a manner that endangered the safety of officers and others. McDonald and other members of the US Marshall Fugitive Task Force chose to arrest Moret by boxing him in while he sat inside his parked Audi. The Task Force members approached Moret with emergency lights and sirens and McDonald positioned his vehicle directly in front of Moret's vehicle. Moret suddenly reversed his vehicle with enough speed to push ██████'s vehicle three to four feet backwards. Despite numerous orders by police to stop, stay in his seat, and get his hands up, Moret drove his vehicle forward and rammed McDonald's vehicle into the

street knocking McDonald back. Thereafter, Moret reversed his vehicle again and attempted to escape by driving forward and colliding with McDonald's vehicle a second time. Once again, McDonald's vehicle was pushed back and into him causing him to be pushed back. McDonald, fearful that Moret was going to continue pushing his vehicle on top of him and run him over, fired his duty weapon four times at Moret, wounding him.

CONCLUSION

Based on a review of the evidence presented, we find that Moret's driving was an imminent and deadly threat to McDonald. McDonald was forced to make a split-second decision as to the amount of force necessary to protect him. McDonald's decision to defend himself from that deadly threat was reasonable under the circumstances.