

**Non-Fatal Officer Involved Shooting of Shane Whelchel
Los Angeles County Sheriff's Department**

Deputy Blake Corrigan #623016

J.S.I.D. File #21-0412



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Justice System Integrity Division

May 17, 2022

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
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Homicide Bureau
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Monterey Park, California 91755

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

SUBJECT: Non-fatal Officer Involved Shooting of Shane Whelchel
J.S.I.D. File #21-0412
L.A.S.D. File #021-07807-0399-055

DATE: May 17, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 30, 2021, non-fatal shooting of Shane Whelchel by Los Angeles County Sheriff's Department (LASD) Deputy Blake Corrigan. We have concluded that the deputy acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 4:32 a.m., on September 30, 2021. The District Attorney Response Team (DART) responded to the location and was 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, crime scene sketches, photographic and video evidence, and witness statements submitted by LASD Homicide Detectives Christopher Dimmitt and Cynthia Toone. Compelled statements were not considered in this review.

FACTUAL ANALYSIS

On September 30, 2021 at approximately 2:05 a.m., Deputy Justin Sabatine and his partner Corrigan drove into the parking lot of the Palms Motel located at [REDACTED] South Figueroa Street in Los Angeles. The location was known to deputies as a frequent venue for human trafficking and illegal narcotics sales. As they drove into the motel parking lot, both deputies saw Whelchel – who was standing in the parking lot – grab at his waistband, causing them to believe he was likely armed.

Surveillance video shows Whelchel turning and moving quickly toward a stairwell (which he ascended) after deputies pulled their patrol car into the motel parking lot.



Figure 1: Whelchel moved towards a stairway after seeing the LASD patrol car turn into the motel parking lot.

The deputies stopped their car near the motel's front office and exited. Sabatine saw Whelchel on the second floor landing and illuminated him with a flashlight.



Figure 2: After exiting the patrol car, Sabatine illuminated Whelchel with a flashlight as Whelchel walked along the second floor landing.

Sabatine ascended the staircase in pursuit of Whelchel. As he did so, he noticed a set of keys laying in the stairwell.

Corrigan stayed on the parking lot level and moved parallel with Whelchel as Whelchel shuffled along the second floor landing toward room seven at the west end of the floor.¹ Several witnesses in the parking lot reported hearing deputies give Whelchel orders, including telling Whelchel to stop, put his hands up, and not to move. Whelchel kept moving.



Figure 3: Whelchel kept moving towards room seven despite orders to stop.

¹ Whelchel later disclosed that he had paid cash and rented the room for six hours.

As seen from motel surveillance footage, at the end of the hall Whelchel attempted to force open the door to room seven.



Figure 4: Whelchel attempted to force open the door to room seven.

After failing in his effort to open the door, Whelchel turned around and faced Sabatine who had just reached the second floor landing. Whelchel appeared to retrieve an object from his waistband.



Figure 5: Whelchel appeared to retrieve something from his waistband.

Whelchel then turned immediately to his right and moved onto the turnout overlooking Corrigan’s position in the parking lot below. In that same interval, Sabatine’s body worn video captured the sound of Corrigan yelling, “Get your hands up! Hands up!” Sabatine then said, “Fuckin’ hands up! Hey! I’ll shoot you!”

Corrigan’s body worn video (BWV) shows Whelchel move toward the turnout and then step toward the balcony’s edge where he threw the pistol over the rail. Surveillance camera footage – recorded from a different angle – also captured the pistol being thrown. At the same time that the pistol was tossed, Corrigan fired a rapid four round burst from his service weapon.² A debris cloud erupted as a result of a nearby building surface being struck by a bullet. Whelchel collapsed with a through and through gunshot wound to the thigh.

² Corrigan’s BWV provided no audio at the moment of the shooting because it was still buffering. However, the video recorded motion consistent with the recoil of a firing handgun. Surveillance video footage showed effluent ejecting from Corrigan’s pistol at the same time that Whelchel’s pistol flew through the air.



Figure 6: BWV still frame image shows Whelchel in the turnout just before he moved to his right and threw the pistol over the rail.



Figure 7: BWV still frame image shows the pistol as it is thrown over the rail. The image reflects Corrigan's vantage point at the moment of the shooting.

A loaded Ruger 9mm semiautomatic pistol was found in the motel driveway approximately 30 feet from the building.³



Figure 8: Photograph showing the pistol found in the motel parking lot.

After the shooting, Corrigan continued yelling, “Keep your hands up! Keep your hands up right now!” Other units responded to the location. Deputies formed a tactical team, approached Whelchel, and handcuffed him. Paramedics responded to the scene, provided medical treatment to Whelchel, and then transported him to the hospital where he was treated and released for booking. Room seven and a vehicle registered to Whelchel were both searched pursuant to warrant. During the search, LASD personnel seized a digital scale, marijuana, and methamphetamine from the vehicle. In addition, three gallon-sized plastic bags of marijuana and an assortment of drug paraphernalia (including glass pipes and syringes) were seized from room seven.

Whelchel was interviewed by detectives about the incident. During the interview, Whelchel stated that he was “scared of the police.” Asked why the police shot him, Whelchel replied it was because he did not comply with their commands. He characterized the encounter with deputies by saying, “Don’t move! Don’t move! – But I’m afraid of you . . .” Referring to the deputy who shot him, Whelchel commented that, “It doesn’t matter. I made my choice and he made his.” Whelchel denied trying to assault anyone. He stated that he had paid cash and rented the room for six hours. Whelchel said he went downstairs to get towels and saw the police pull into the motel parking lot. Asked what he did when he saw the police, he responded that he walked away from them and went back to his room (room seven). When asked about the firearm, Whelchel declined to answer further questions and simply said, “We’ll figure it out in court.”⁴

³ The Ruger was later examined and found to contain a round in the chamber. The report provided by LASD indicated that the pistol had a loaded magazine affixed but did not detail how many rounds were in the magazine.

⁴ On December 10, 2021, Whelchel pled guilty to one felony count of possession of a firearm with prior violent conviction (Penal Code § 29900(a)(1)), in connection with the incident.

Corrigan's service weapon, a Smith & Wesson M&P 2.0 9mm semiautomatic pistol, was examined and found to contain one live round in the chamber and 13 rounds in the mounted magazine. All of the rounds inventoried bore FC 9mm Luger head stamps. Corrigan stated that he began the shift with a round in the chamber and a full 17 round magazine affixed to his pistol, for a total load of 18 rounds.⁵ Four shell casings bearing identical FC 9mm Luger head stamps were found in the bed of a pickup truck near Corrigan's firing position. The evidence is consistent with Corrigan having fired four rounds during the incident. No ballistic reports were provided with this investigation.

LEGAL ANALYSIS

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

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary either to: (1) defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code § 835a(c)(1)(A) & (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code § 835a(e)(2).

In assessing the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code § 835a(a)(4) & (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code § 835a(a)(4).

In evaluating whether a police officer's use of force was reasonable, 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 the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make

⁵ Corrigan's two spare magazines do not appear to have been inventoried.

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.

The evidence in this investigation shows the deputies were patrolling a location known for frequent criminal activity. Immediately, they observed someone who evaded them and acted as though he was armed. The evidence subsequently confirmed that they were correct. By his own admission, Welchel refused to follow deputies’ orders, pulled a firearm, and then moved toward Corrigan. Welchel’s action in displaying the firearm rapidly escalated the situation, left no time for reflection, and only a split second to react.

That Welchel may not have intended to shoot Corrigan does not invalidate Corrigan’s perception of a hostile act. From the position he occupied on the second floor landing, even though Welchel threw the pistol over the rail, he could just as easily have fired it at Corrigan. Corrigan perceived that he was about to be shot. Perceiving an imminent threat, Corrigan made a decision to fire. The surveillance footage confirms that there was no meaningful interval in which the deputy could interrupt a decision to use deadly force, even if it were assumed that he was simultaneously able to perceive Welchel’s act of discarding the weapon.

Under these circumstances, an objectively reasonable peace officer could fairly conclude that Welchel had the present ability, opportunity, and apparent intent to cause immediate death or serious bodily injury to Corrigan and others. Accordingly, it was reasonable for Corrigan to use deadly force to defend himself and to protect the public from potential harm. Accordingly, Corrigan acted in a manner consistent with how an objectively reasonable peace officer would react in similar circumstances.

CONCLUSION

We find that Deputy Corrigan acted in lawful self-defense and defense of others when he used deadly force against Welchel.