

Non-Fatal Officer Involved Shooting of Dexter White

Los Angeles Police Department

Officer James Quinata, #37450

Officer Davin Aquino, #41631

Officer Rodolfo Sarmiento, #38342

J.S.I.D. File #18-0028



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

June 22, 2022

MEMORANDUM

TO: CAPTAIN RICH GABALDON
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

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

SUBJECT: Non-Fatal Officer Involved Shooting of Dexter White
J.S.I.D. File #18-0028
F.I.D. File #F003-18

DATE: June 22, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 11, 2018, non-fatal shooting of Dexter White by Los Angeles Police Department (LAPD) Officers James Quinata, Davin Aquino, and Rodolfo Sarmiento. It is our conclusion that Quinata, Aquino, and Sarmiento acted in lawful self-defense and defense of others at the time they fired their weapons.

The District Attorney's Command Center was notified of this shooting on January 11, 2018 at approximately 12:55 a.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by LAPD, Force Investigation Division, Body Worn Video (BWV) of LAPD officers, and third-party video that captured portions of the incident. The officers' departmentally compelled statements were not considered in this analysis.

FACTUAL SUMMARY

On January 11, 2018, at approximately 10:59 a.m., 12 year old ██████ called 9-1-1 to report that her mother, ██████, was being stabbed at a residence located on 41st Street in Los Angeles. ██████ hung up the phone, went to her neighbor ██████'s house, and told him that Dexter White was stabbing her mother. ██████ looked out of his window and saw White standing outside holding a folding knife in his right hand. The knife had an approximate six-inch blade. ██████ also called 9-1-1.

At approximately 11:00 a.m., Communications Division (CD) broadcast a call for an assault with a deadly weapon (ADW) at the residence on 41st Street. The comments in the call indicated a description of White and that he was last seen running west on West 41st Street holding a knife.

At approximately 11:22 a.m., LAPD Detective Steve Razo was driving an unmarked car when he saw White running southbound on Kansas Avenue from Martin Luther King Jr. Boulevard. Razo broadcast a backup request and continued to follow White westbound on West 40th Place as White approached the corner of West 40th Place and Walton Avenue.

Quinata and Richardson responded to Razo's backup request. Quinata was driving a marked black and white police vehicle and Richardson was the passenger. As they were driving northbound on Walton Avenue, White ran in front of their vehicle and stopped at the northwest curb of Walton Avenue and West 40th Place. Quinata parked the police vehicle at an angle in the intersection of Walton Avenue and West 40th Place facing northwest with the front of the vehicle pointed directly at White. Both officers exited the vehicle.



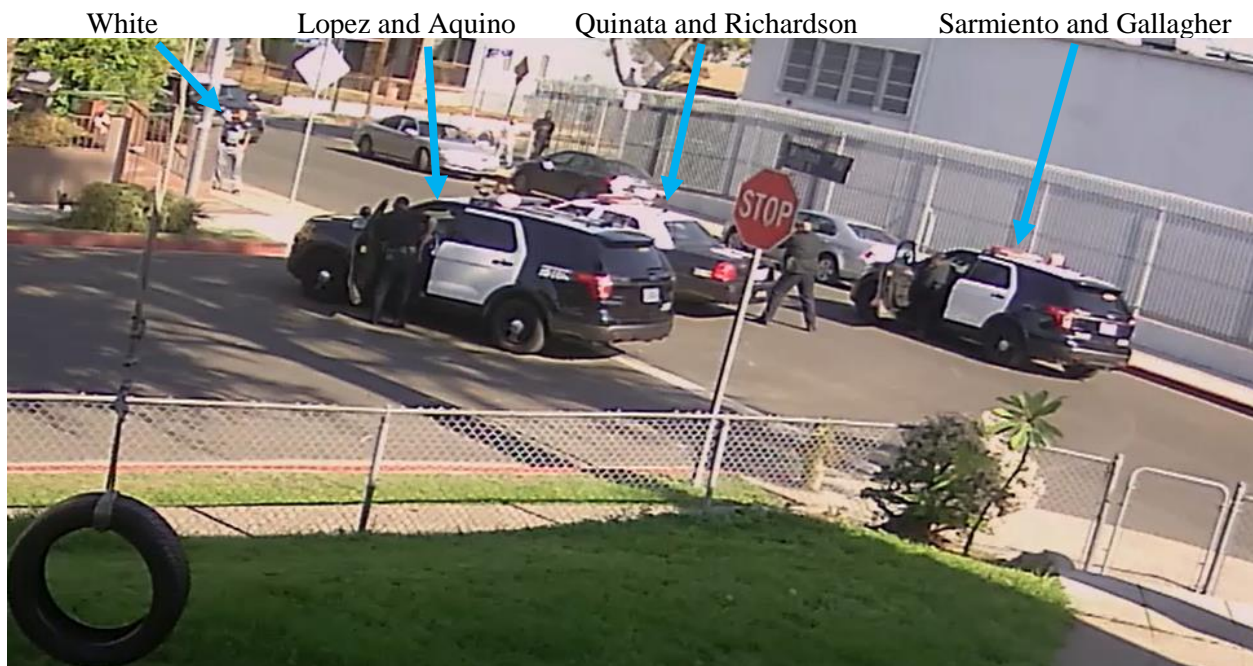
The intersection of Walton Avenue and West 40th Place at the time Quinata and Richardson exited the vehicle

The officers ordered White to get on the ground. White did not comply. Richardson's BWV audio activates at approximately 11:23 a.m. and captures White stating, "...Or not today I'm going to die or not." Richardson stated to White, "Come on down to your knees. You don't want to die. Come on down to your knees." White remained standing and crossed his arms in front of his chest. Richardson requested backup.

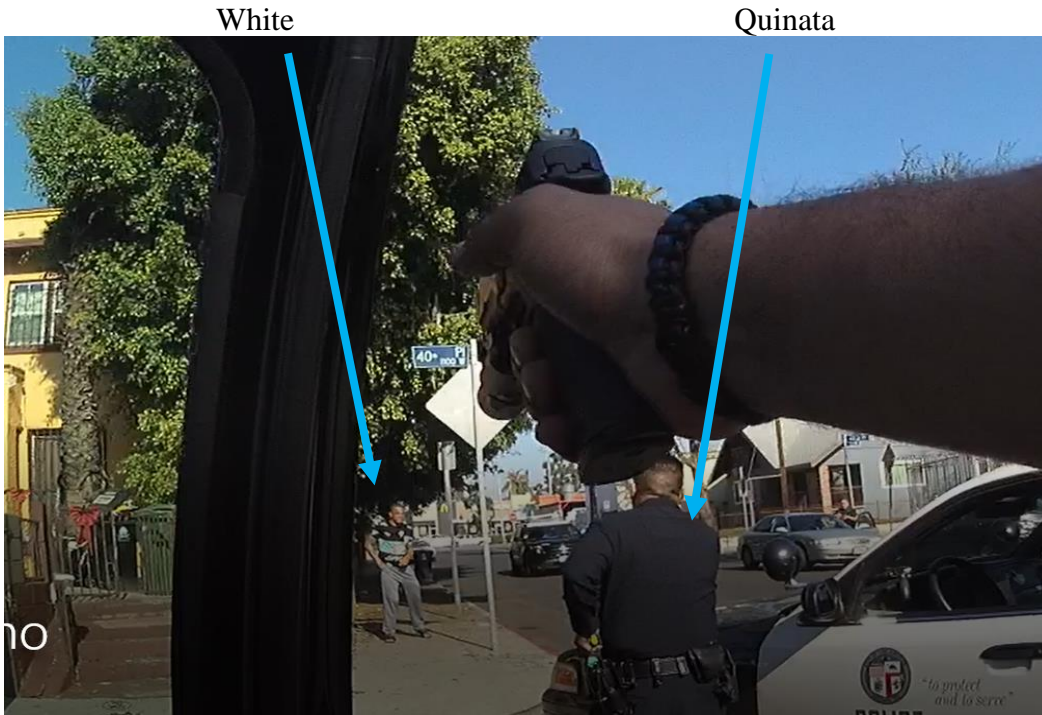
LAPD Officers Aquino and Carlos Lopez responded to the backup request, arrived at the scene, and positioned their police vehicle on the west side of Quinata and Richardson's vehicle. Sarmiento and LAPD Officer John Gallagher arrived on scene and positioned their vehicle on the east side of Quinata and Richardson's vehicle. Los Angeles School Police Officer Andy Procel arrived at the scene and parked his vehicle at the northeast corner of West 40th Place, facing

south. Razo arrived at the scene and positioned his vehicle on the northeast corner of South Walton Avenue and West 40th Place facing south. All of the officers exited their vehicles.

White began to walk backwards, placed his right hand inside his right pants pocket, and moved his left hand towards his waistband. Richardson ordered White, "Get your hands out of your pocket!" White did not remove his right hand from his pocket and began to move his right hand around inside his pocket. White briefly put his left hand in his left front pants pocket, removed it, and held it front of his waistband area. Richardson, with increasing urgency, began to shout at White to take his hand out of his pocket. White continued to move his right hand around in his pocket while his left hand grasped his waistband. White became increasingly agitated, looking around and taking steps backwards.



The intersection of Walton Avenue and West 40th Place depicting White with his right hand in his pocket and the positions of the officers

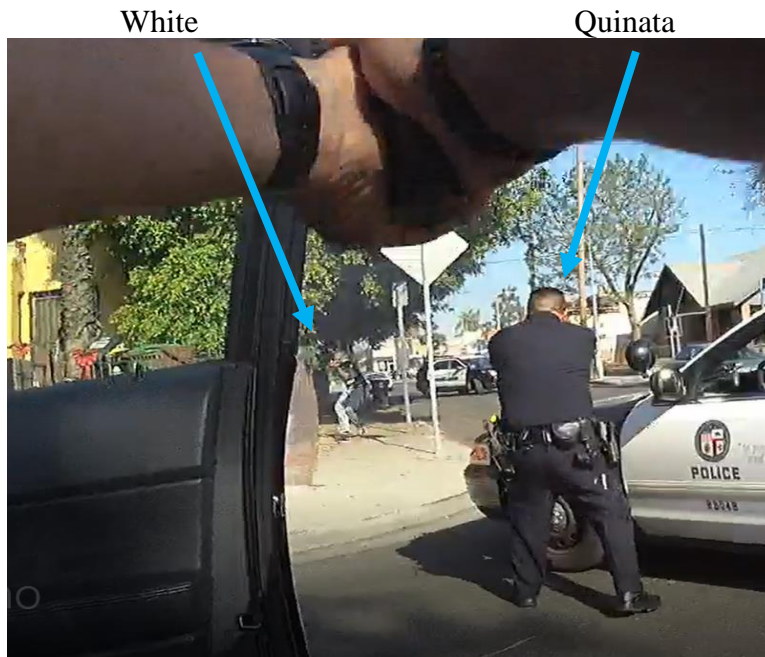


Video still taken from Aquino's BWV depicting White's right hand in his pocket

White quickly removed his right hand from his pocket, took a step forward with his left foot, pushed his arms out in front of him in a shooting stance with both arms extended, and pointed a metallic object in the direction of the officers.



The intersection of Walton Avenue and West 40th Place depicting White in a two-handed shooting stance



Video still taken from Aquino's BWC depicting White in a two-handed shooting stance

Quinata, Aquino and Sarmiento discharged their weapons, striking White multiple times. White fell to the ground and then moved into a prone position on the sidewalk with the object, later determined to be a black Samsung Galaxy S6 Edge cellphone, in his right hand.

At approximately 11:35 a.m. Los Angeles Fire Department (LAFD) personnel arrived at the scene. They determined that White had sustained multiple gunshot wounds to his left torso area. White was transported to the California Hospital Medical Center Emergency Room and underwent surgery for his wounds. White ultimately survived his injuries.

Quinata was armed with a department-authorized Glock .45 caliber Model 21SF pistol. He discharged four rounds during the incident.

Aquino was armed with a department-authorized Smith & Wesson 9mm Model MMP9 semiautomatic pistol. He discharged seven rounds during the incident.

Sarmiento was armed with a department-authorized Glock .40 caliber Model 22 semiautomatic pistol. He discharged eight rounds during the incident.

OFFICER WITNESS STATEMENTS

Richardson made a statement regarding the incident. He stated that White would not comply with any of the officers' orders. Richardson stated that he thought White was about to attack the officers. Richardson saw White draw his right hand from his pocket holding a silver object. Richardson saw White point that object at Quinata and believed that the object was a handgun. Richardson stated that he intended to fire his own weapon and placed his finger on the trigger. Richardson stated that as he focused on the barrel portion of the object in White's hand, he

observed it to have a flat edge and then heard the other officers fire their weapons. Richardson stated that the other officers were able to fire their weapons before he did and he did not want to engage in contagious fire. Richardson realized White was not holding a handgun at the last second.

Gallagher made a statement regarding the incident. Gallagher stated that he initially perceived the object in White's hand to be a handgun. Gallagher intended to fire his own weapon at White. Gallagher stated that he had his finger on the trigger of his weapon and then observed the object in White's hand to be a cellphone.

Lopez made a statement regarding the incident. Lopez stated that he saw the other officers pointing their pistols at White and that White had his right hand in the pocket of his pants. Lopez stated that he decided to deploy a beanbag shotgun, holstered his pistol, and reached inside his vehicle to retrieve a beanbag shotgun. He observed White pointing what he perceived to be a black metal pistol at Aquino and heard gunshots.

Procel made a statement regarding the incident. Procel stated that he observed White moving his arms up and down and yelling "Fuck!" Procel stated he observed White holding a black object in his right waistband area. Procel stated he then heard gunshots and observed White turn to his right and fall to the ground.

Razo made a statement regarding the incident. Razo stated that he was able to observe the left side of White's body. Razo stated he heard Quinata and Richardson tell White, "Put your hands up! Put your hands up!" Razo observed White raise and lower his arms and walk backward. Razo began to put on his tactical vest and he heard gunshots. Razo observed White collapse to the ground.

WHITE'S STATEMENT

White made a statement while in the hospital after the incident. The statement was recorded. LAPD Detectives Chavez, Medina and Gonzalez were present in the hospital room with White. Throughout the interview White speaks very slowly and lethargically and sounds as if he is sedated or medicated. The officers ask White if he is sedated. White responds "I'm not talking without my lawyer, call my lawyer." White gives the officers his lawyer's name and phone number, however the officers do not call White's lawyer. The officers ask White if he can talk about "why what happened happened." White asks the officers to, "Call my lawyer please." The officers continue to question White asking him to talk about "why what happened happened" and do not call White's lawyer. White states that he had three phones in his pocket and that the officer shot him because "I pulled out my phone." The officers ask White if he had said that he "wanted to die." White states that "I know when I pull my phone out you're gonna shoot me so if that's what you call ready to die, then yes." White further states that he told the officers "I don't have a gun. I have a phone." The officers ask White how he pulled his phone out, and White states he pulled his phone out with his right hand. The officers ask White if he pulled his phone out fast or slow, and White states he pulled it out slowly. White is asked if he pointed his phone at the officers and White responds that, "I never got a chance to use the phone. As soon as they see something in my hand, they started shooting." White was asked if the officers were telling him to do anything, and White responds that the officers told him to stop

walking and to freeze. White then asks the officers to call his lawyer. Gonzalez tells White that Chavez is present to investigate the incident that precipitated the 9-1-1 call. Gonzalez asks White if he has any questions. White asks, "Where's my lawyer? Can you call him please?" Gonzalez tells White that if they need to talk to White's lawyer they will call him. The officers ask White if he will sign a medical release for White's medical records. White declines, and the recording ends.

CIVILIAN WITNESS STATEMENTS

██████████ made a statement regarding the incident. He stated that he was inside his residence and saw White quickly remove his right hand from his pocket, take a two-handed shooting stance, and point an object at the officers. He stated that he could not tell what the object was in White's hand but believed it to be a gun. He further stated he believed White intended to shoot Quinata.

██████████ made a statement regarding the incident. She stated that she was standing on the west sidewalk of South Walton Avenue and saw White with both of his hands inside his pockets when the officers fired their weapons. ██████████ showed investigators her position on the sidewalk of South Walton Avenue and investigators determined it to be approximately 175 feet away from White's location. Video footage from a residence shows ██████████ facing south, away from White and the officers, and walking southbound on South Walton Avenue at the time the officers fired their weapons.

CRIMINAL CHARGES

White was charged in case number BA464358 with one felony count of Penal Code section 245(a)(1) and one felony count of Penal Code section 273(a)(a). The People announced that they were unable to proceed on October 19, 2018, based on insufficient evidence to prove the case beyond a reasonable doubt, and both charges were subsequently dismissed.

ANALYSIS

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505.

Actual danger is not necessary to justify the use of deadly 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 merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

Under California law on the date of this incident, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard,

which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146.

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 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 examined shows that the officers responded to a call of an ADW. When they arrived, they saw White, who fit the description of the suspect and who refused to comply with the officers' orders. White quickly removed his right hand from his pocket, stepped into a two-handed shooting stance, and pointed a metallic object at the officers. His agitated behavior, non-compliance with commands to remove his hand from his pocket, the manner in which White held the object, and comments regarding dying "today" all contribute to the reasonableness of the officers' conclusion that White was pointing a firearm at them and presented an immediate and deadly threat. ██████ stated that he saw White quickly remove his hand from his pocket and point an object at the officers. ██████ believed the object was a gun, and that White intended to shoot Quinata. This further reinforces the reasonableness of the officers' actions. The fact that the object was later determined to be a cellphone does not alter the reasonableness of their decisions.

Richardson, Gallagher and Lopez also observed White's actions but did not fire their weapons, however this does not change the conclusion. White had quickly removed his hand from his pocket, taken a two-handed shooting stance, and pointed a metallic object at the officers. Richardson, Gallagher and Lopez all initially believed that White was pointing a firearm at the officers.

White stated that he told the officers that he did not have a gun and that he had a phone. White further stated that he removed the phone with his right hand and that he removed the phone slowly. The audio on Richardson's BWV does not activate until midway through the interaction between the officers and White, and, when activated, appears to capture White in mid-sentence stating "...Or not today I'm going to die or not." Officers' BWV and residential surveillance video also shows White removing his right hand from his pocket quickly.

White's statements in the hospital are either not supported by the video evidence in the case of whether he told the officers he had a phone and not a gun, or directly contradicted by the video evidence in the case of how fast he removed his right hand from his pocket.

██████ stated that she saw White with both hands in his pockets when the officers fired their weapons, however she was approximately 175 feet away from White and the overall evidence suggests she was in error. Video surveillance shows she was walking and facing away from White when the officers fired their weapons. Finally, video surveillance clearly shows White remove his right hand from his pocket, take a two-handed shooting stance and point his arms in the direction of the officers before the officers fired their weapons.

The totality of the evidence indicates that Aquino, Sarmiento and Quinata acted lawfully when they used deadly force in this situation.

CONCLUSION

Aquino, Sarmiento, and Quinata acted lawfully in self-defense and defense of others when they fired their weapons.