

**Non-Fatal Officer Involved Shooting of Devon Thomas and  
Elijah Kareem Hall and Non-Fatal Use of Force upon Marcus  
Mitchell**

**Long Beach Police Department**

**Detective Bobby Anguiano, #5945  
Detective Thomas Brown, #5104  
Detective Timothy Everts, 5483**

**J.S.I.D. File #16-0463**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**October 26, 2020**

## MEMORANDUM

TO: CHIEF ROBERT G. LUNA  
Long Beach Police Department  
400 West Broadway  
Long Beach, California 90802

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

SUBJECT: Non-Fatal Officer Involved Shooting of Devon Thomas and Elijah  
Kareem Hall and Non-Fatal Use of Force upon Marcus Mitchell  
J.S.I.D. File #16-0463  
L.B.P.D. DR#16-57966

DATE: October 26, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 11, 2016, non-fatal shootings of Devon Thomas by Long Beach Police Department (LBPD) Detective Bobby Anguiano, and Elijah Kareem Hall<sup>1</sup> by LBPD Detective Thomas Brown, and the non-fatal use of force upon Marcus Mitchell by LBPD Detective Timothy Everts. It is our conclusion that Detectives Anguiano, Brown, and Everts used reasonable force in self-defense and defense of others and to apprehend a dangerous fleeing felon, and there is insufficient evidence to prove beyond a reasonable doubt that the instances of lethal and non-lethal force were unlawful.

The District Attorney's Command Center was notified of this shooting on September 11, 2016, at approximately 7:20 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LBPD Sergeant Robert Woods.

The following analysis is based on investigative reports, witness statements, videos and photographs submitted to this office by LBPD Investigators Malcolm Evans and Robert Gonzales. No compelled statements were considered in this analysis.<sup>2</sup>

### **FACTUAL ANALYSIS**

Between approximately 3:00 a.m. and 4:00 a.m. on September 11, 2016, LBPD received reports of two armed robberies involving a handgun and a shotgun wielded by several young men traveling in an older model, silver Mercedes Benz. Around the same time, the body of a murder victim was found on a street near the other two armed robbery scenes, with wounds that appeared to have been caused by a shotgun blast. The robbery victims described their assailants

---

<sup>1</sup> Hall was not struck by any projectiles fired by Brown, but, as this officer involved shooting (OIS) also occurred during this incident it is reviewed here as well.

<sup>2</sup> Anguiano, Brown, and Everts wrote voluntary detailed Incident Reports documenting their observations and actions relating to this incident. Their statements, detailed below, are derived from these reports.

and reported losing their cell phones and car keys. Subsequently, the perpetrators returned to the scene of the first robbery and used the victim's electronic key to activate and drive off with his car, a black, older model Audi. Detectives went to a nearby pawn shop where one of the victims' phones had pinged. Investigation there linked some of the stolen items to individuals matching the general description of the robbers pawning items at the store. One of the suspects wore his hair in a small ponytail.

The Career Criminal Apprehension Team (CCAT) is an unmarked unit that is utilized by LBPD to conduct surveillances. On September 11, 2016, CCAT detectives began conducting surveillance in the area of Lemon Avenue and Pacific Coast Highway (PCH) in Long Beach seeking the vehicles and perpetrators of the robberies and murder. Later that afternoon, members of LBPD's CCAT radioed that they had located several individuals matching the description of the robbers, entering and exiting the stores in the mini-mall at Lemon Avenue and PCH. This location is one-and-one-half miles from the scenes of the murder and robberies. CCAT members also saw an older silver Mercedes Benz parked in the lot. The back window of the Mercedes was completely broken out. As fellow CCAT members responded, they observed the robbery victim's black Audi in a nearby parking space, and saw that occupants of both vehicles moved about and possibly transferred an item from the Mercedes to the Audi. The driver of the Audi, later identified as Elijah Kareem Hall, had a small ponytail. CCAT members formed a plan to drive into the mini-mall and block the exits in order to detain these individuals in furtherance of the investigation. Three of the Audi occupants entered and exited the nearby Metro PCS phone store. One of the passengers, later identified as Marcus Mitchell, went into Little Caesar's in the mini-mall and returned to the Audi carrying pizza boxes.

An individual was leaning through one of the open windows of the black Audi. As CCAT members entered the mini-mall parking lot in several unmarked vehicles, he stood up and entered the Metro PCS store where he joined two other individuals who had previously exited the Mercedes and entered the store.<sup>3</sup>

As the CCAT members entered the parking lot, Hall backed the Audi out of the parking spot abruptly, crashed into one of the CCAT vehicles, and pulled forward. As Hall reversed the Audi into another CCAT vehicle, Mitchell, the front passenger, exited the Audi, dropped the pizza boxes he was holding, ran out of the parking lot, and headed southbound across PCH. Hall drove forward slightly. The back passenger, later identified as Devon Thomas, exited on foot, and started to run eastbound.

Hall sideswiped some other vehicles, and managed to exit the lot. He drove across Lemon Avenue, into the lot of the Loaded Kitchen Restaurant, where he was confronted by more CCAT vehicles. He crashed into a cinderblock wall and a car parked in the restaurant's lot. Brown, one of the CCAT members conducting surveillance, was aware of the crimes and descriptions of the suspects. He noted that Hall exited the Audi, appeared to be seeking cover, and was tracking Brown's location as Hall ran behind the car he had crashed into. As Brown moved to counter Hall's position of advantage, Brown skidded in fluids from the crashed car and fell down. Hall opened a distance of 20 to 25 feet from Brown. Brown observed Hall pull at his waistband as he fled. Brown, fearing for himself or nearby unsuspecting citizens, fired his service weapon twice at Hall before getting back onto his feet. Hall continued running southbound across PCH.

---

<sup>3</sup> As described further, below, evidence tying these individuals and vehicles to the robberies and murder was eventually found in the PCS store.

Brown continued to give chase. Hall was apprehended after he ran through the backyards of some houses south of PCH. A box of .32 caliber rounds was found in the Audi. Hall was ultimately charged with the murder and robberies committed earlier that day.<sup>4</sup>

While Hall was fleeing in the Audi, Mitchell ran southbound across PCH. Detective Everts tried to stop him by striking him with the bumper of his unmarked vehicle. Mitchell fell to the pavement, got up again, and continued running southbound onto Cerritos Street. Mitchell ran into a home, startling a family with small children. He grabbed clothes from inside the residence and changed in a bedroom. He then jumped out a window and over a wall, and was detained by police. Mitchell sustained scrapes and lacerations on his arms and legs and bruised ribs as a result of the use of force. He was released from the hospital on the same day.

While Mitchell turned south, Thomas exited the Audi and began to run northeast. CCAT Detectives Anguiano and Timothy Covey gave chase on foot. Thomas ran across the lot towards a walkway leading to the sidewalk of Lemon Avenue, north of PCH. As he ran, Thomas kept his right hand clutched at his waistband while his left arm swung freely. In fear that Thomas was involved in the robberies and murder, that he was armed, and that he was escaping towards a residential area, Anguiano fired two rounds from his service weapon, striking Thomas in the flank. Thomas dropped onto the walkway and was taken into custody. He was found to be unarmed and was transported for medical treatment. Surgery to repair a gunshot wound to his liver was successful. A relative of Thomas provided him an alibi for the time period during which the robberies and murder occurred. He was not charged with those crimes.

Avonte J., Travion L., and Savajae B. were seen entering and exiting the Mercedes and the Audi before Hall drove away. They were later detained inside the Metro PCS store. Investigators recovered a .32 caliber black revolver handgun secreted behind an ATM machine in that store. The revolver matched the robbery victims' description of one of the weapons used in the robbery. Also recovered from within the store was a key fob which unlocked the black Mercedes. A bag of shotgun shells was recovered from the trunk of the Mercedes. Jones was also charged with the murder and robberies committed earlier that morning.<sup>5</sup> Lewis, who was seen secreting the weapon in CCTV footage from the PCS store, was charged with unlawful possession of the revolver.<sup>6</sup>

### Video Evidence

Security camera footage from the location of the OIS shows that individuals exited the silver Mercedes and entered and exited the Metro PCS store and Little Caesar's. Upon the arrival of the black Audi, some of these individuals entered that car. Others re-entered the Metro PCS store. The front and back passengers of the Audi jump out and begin to flee as Hall evades the unmarked vehicles entering the lot.

One camera angle clearly shows Thomas running from the Audi and towards the northeast exit of the mini-mall. He gains distance from two pursuing officers. As he flees, his right hand stays close to his waist as his left arm swings more freely. Anguiano appears to discharge a round. Thomas starts to bring his hands up. Anguiano appears to discharge another round just as Thomas puts both his hands up. Anguiano is stepping out of his shooting stance and his firearm

---

<sup>4</sup> Hall is currently awaiting trial on those charges in case number NA104968.

<sup>5</sup> Avonte J. is Hall's co-defendant in case number NA104968.

<sup>6</sup> Travion L. has since pled guilty to that charge as a felony in case number NA105015.

appears to recoil for the second time at the same moment that Thomas tumbles forward onto the walkway.



*Figure 1: Thomas runs with his right hand at his waistband as Anguiano fires.*

Additional footage from other cameras show Hall driving across Lemon Avenue, colliding with another vehicle parked to the rear of the Loaded Kitchen restaurant, and fleeing on foot. His path of travel is partially obscured by the vehicles and restaurant building but what is visible is consistent with the statements subsequently given by the officers who pursued him.

#### Officers' Statements

Each of the involved or witness officers wrote reports describing their observations and participation.

#### **Detective Hector Cardiel**

Cardiel reported that he was called into work on September 11, 2016 to assist a homicide investigation in his capacity as a CCAT detective. He was briefed on the state of the investigation as of that afternoon, and provided descriptions of several suspects and two vehicles they used in the robberies and murder earlier that day. Cardiel drove his unmarked vehicle around the area of the incidents and followed a silver Mercedes with a broken-out black window and three occupants generally matching the descriptions of the suspects. The Mercedes pulled into the mini-mall on the northwest corner of Lemon Avenue and PCH. Cardiel took a position of surveillance and saw all three occupants enter and exit the Metro PCS store. He ran the license plate which came back to a stolen vehicle. Cardiel broadcast his observations to the CCAT team. His view of the Mercedes was obscured for a time by another vehicle. When that vehicle left the parking lot, Cardiel was also able to see a black Audi parked nearby. There were three people in the Audi as well. The occupants of both vehicles interacted with each other. Cardiel noticed when the driver of the Audi exited, that he had a small ponytail.

One individual seemed to lean in and remove an item from the Mercedes, place it in his waistband, and bring it to the Audi. Two women arrived from another vehicle and talked with the group. They moved away from the Audi as a marked patrol car drove past on PCH. One of the Audi occupants, later identified as Mitchell, went into Little Caesar's, returned with two pizza boxes, and got into the front passenger seat. Hall had already returned to the Audi and the brake lights and reverse lights came on. Cardiel gave the pre-arranged signal and CCAT members drove into the lot in an attempt to box in the Audi to detain the occupants.

Cardiel saw two passengers, Mitchell and Thomas, exit the Audi and the Audi collide with one of the CCAT vehicles. Mitchell was carrying pizza boxes and running right towards him. Cardiel got out of his car, wearing his tactical vest, and ordered Mitchell, at gunpoint, to stop running. Mitchell ran past him. Cardiel saw Anguiano and Covey chasing Thomas. Cardiel chased Mitchell across Lemon Avenue and then southbound across PCH. He heard the screeching of tires and two gunshots behind him.

As he ran, he saw Everts drive his unmarked car eastbound on PCH in the westbound lanes, striking Mitchell. The impact pushed Mitchell forward. He rolled over a couple of times, jumped up, and kept running southbound into the alley west of Cerritos Avenue. Cardiel heard a crash and more gunshots behind him.

Cardiel lost sight of Mitchell as he ran between the houses. The CCAT team set up a perimeter. As Cardiel headed toward Cerritos Avenue, he encountered Hall, who he recognized as the driver of the Audi. Cardiel and Everts took Hall into custody. After doing so, a neighbor approached a nearby patrol officer. She stated with some concern, that Mitchell was in her house with her children and was changing his clothes. Mitchell ran out of the home, and officers located and detained him. Mitchell had fresh abrasions on his arms and was wearing different clothing.

### **Detective Timothy Everts**

Everts reported that he was called into work on September 11, 2016 to assist a homicide investigation in his capacity as a CCAT detective. He was briefed on the case and knew that one of the suspects in the first robbery was armed with a shotgun, that there was evidence that a shotgun was used to killed the murder victim soon thereafter, and that suspects matching the descriptions given in the first robbery were armed with both a shotgun and a handgun used in a second robbery that occurred just after the murder. Everts was also told the victims were robbed of a gold chain, three cell phones, and car keys and subsequently one of the victim's cars, a black Audi, was stolen. The phones, after being shut off, began pinging in the location of a pawnshop. The pawnshop dealer provided receipts for a gold chain, three cell phones, and two tablets pawned by a man earlier that day. That man was accompanied by four to five other young men, one of whom sported a small ponytail, according to the shop owner. The owner was working to retrieve security camera footage of the transaction.

Everts heard Cardiel broadcast that he saw individuals and vehicles matching the description of those involved in the crimes arriving at the mini-mall on the corner of Lemon Avenue and PCH. Everts drove his partner, Detective Joel Camrin, in their unmarked vehicle, to the area. As they approached, they saw the black Audi evading the other CCAT vehicles and Mitchell jump out of the front passenger seat and sprint away from the location. Mitchell looked back over his left shoulder and grabbed at his right waistband as he angled across PCH.

Everts believed Mitchell was one of the suspects involved in the robberies and murder and appeared to be arming himself. As he drove towards Mitchell, Everts feared that Mitchell could pull out a handgun and shoot him or other detectives. In fear for his life and the lives of others, he drove towards Mitchell and struck him with the front of his vehicle, and then braked so as not to run him over. Mitchell fell down, rolled a couple times, got up, and kept running southbound into the alley to the west of Cerritos Avenue. Everts saw that Cardiel and Camrin were chasing Mitchell on foot and joined them. As Everts entered the mouth of the alley, he heard gunshots behind him.

Mitchell ran between the houses and disappeared from Everts' view. Everts next saw detectives detaining Hall and assisted them. After doing so, Everts heard broadcasts that Mitchell had entered a family's home. After a short time, Mitchell was located, taken to the hospital, and released for booking. Everts remained on scene to clear the home and ensure no other suspects remained outstanding.

### **Detective Thomas Brown**

Brown, another CCAT member conducting surveillance, wrote a report of this incident describing the events which led to the crash of the Audi in the Loaded Kitchen parking lot. Brown was aware of the crimes and descriptions of the perpetrators. He noted that Hall appeared to be seeking cover and tracking Brown's location as he came around the side of the car he had crashed into. Brown was in fear that he would be attacked. Brown started to chase Hall on foot, but skidded in fluids from the crashed car and landed in a seated position. Hall was pulling at his waistband as he opened a distance of 20 to 25 feet from Brown. Fearing for himself or nearby unsuspecting citizens, Brown fired his duty weapon twice at Hall before getting up off the ground. Hall continued running. Brown checked to ensure no one was struck by his rounds and continued to give chase.

### **Detective Russell Moss**

Moss was right behind Brown and observed Hall run first northbound and then southbound as Brown fell down. Moss also slipped in the transmission fluid as he saw Hall turn towards the officers and pull at his waistband. Moore saw Brown shoot twice as he sat on the ground.

### **Detective Bobby Anguiano**

Anguiano was assigned to CCAT on September 11, 2016. He was dressed in plainclothes and put on a department-issued tactical vest marked with the word "Police" in large letters on the front and back. He had been apprised of the state of the investigation as of that afternoon, and the description of the suspects and the vehicles used in the robberies and murder earlier that day. He heard the broadcasts from Cardiel who was surveilling the parking lot on the corner of Lemon Avenue and PCH, which described the movements of the suspects and their vehicles.

Anguiano drove into the lot to attempt to block Hall from leaving the parking lot. Upon seeing Mitchell run away from the Audi, Anguiano exited his vehicle, drew his duty weapon, and ran toward the rear of his vehicle. He saw Thomas run away from the Audi. Anguiano ran toward Thomas with his gun in his hand and yelled "Stop!" twice.

Thomas continued to run past and away from Anguiano. As Thomas ran towards Lemon Avenue, Anguiano observed that he kept his right hand touching his waistband, rather than swinging out in front of him as would be expected when running in full-stride. Based on that

movement, and aware that the crime suspects were armed, Anguiano believed Thomas had a gun in the right side of his waistband.

Because of his belief that Thomas was involved in the armed robberies and murder, and that the weapons involved those crimes remained outstanding, Anguiano feared for his life and the lives of the people nearby. At this time of day, other individuals were moving about the mini-mall. Anguiano was familiar with the neighborhood around this location and knew that on Sunday afternoons, nearby Martin Luther King Park, a block away in the direction Thomas was running, would be filled with children playing soccer and family groups barbequing. Therefore, Anguiano feared that Thomas would run into a nearby residence or to the park and cause serious injury or death to a civilian. In the belief that Thomas was an armed and dangerous fleeing felon, and in fear of great bodily injury to himself or others, Anguiano fired his duty weapon twice as he was about 25 to 30 feet away. Thomas fell to the ground on the handicapped ramp leading from the lot to the west sidewalk of Lemon Avenue.

### **Detective Joel Camrin**

Camrin was the passenger officer in an unmarked vehicle driven by Everts. On September 11, 2016 they were assigned to CCAT and outfitted in plainclothes with clearly-marked tactical vests and department-issued firearms. They were assisting the ongoing investigation and monitoring the broadcasts from the location as they traveled westbound to Lemon Avenue and PCH. When they arrived, Camrin saw the black Audi evade the other CCAT vehicles and speed out of the parking lot, running over a planter. Camrin saw Mitchell running away. Cardiel was chasing him. Everts made a U-turn and headed eastbound on PCH back towards Mitchell, who was running southbound, holding his waistband. Cardiel was still chasing behind him. Everts changed lanes and struck Mitchell, then immediately hit the brakes and jumped out of their car. Camrin got out of the vehicle. As Camrin exited, Mitchell got to his feet and started running southbound. Camrin identified them as the police and ordered him to stop running.

Mitchell continued running into an alley behind Cerritos Street, south of PCH and between some houses. Cardiel and others cut off his path of travel. Camrin helped intercept Hall as he came out from behind a residence. Neighbors pointed out Mitchell's location and he was eventually detained.

### **Detective Theodore Covey**

Covey was assigned to CCAT on September 11, 2016 and drove his unmarked vehicle into the lot at the northwest corner of Lemon Avenue and PCH as the black Audi started to drive away. He stopped his vehicle east of the silver Mercedes and he saw individuals exiting the moving Audi. Covey came around the back of his vehicle as Mitchell ran past, and saw Anguiano in front of him as Thomas ran into view. He heard two shots and saw Thomas fall to the ground.

Covey started to help Anguiano detain and aid Thomas, but when he heard the Audi crash across the street he responded there. He saw that Brown and Moss were ahead of him. He came back and assisted Anguiano with Thomas until paramedics arrived several minutes later.

### **Detective Abel Morales**

Morales was also assigned to CCAT on the date of the incident and received the information about the original robberies and murder and heard the subsequent broadcasts regarding the suspects and their vehicles at the location of Lemon Avenue and PCH. Once outside the Metro PCS store, Morales heard multiple gunshots behind him. He detained two women outside the



store who had been talking with the occupants of Audi and Mercedes. Morales then entered the store and detained three more individuals who had been entering and exiting these cars during the surveillance. These included Avonte J. and Travion L. Morales spotted a black handgun on the floor next to the ATM in the Metro PCS store and pointed it out to other officers. Morales heard gunfire and ran outside in the direction of the shots. He encountered Anguiano and asked him if he knew who had fired shots. Anguiano said he was one of the officers who fired his weapon. Morales remained with Anguiano as his peer officer.

### **Detective Robert Gonzales**

Gonzales was contacted by one of the robbery victims after his black Audi was returned to him. The victim showed Gonzales a compartment inside the car. The victim stated that he opened the compartment after LCPD returned the car and discovered a box of .32-caliber bullets. He stated the bullets did not belong to him and he turned them over to Gonzales.

### **Other Witness Statements**

Detectives interviewed over a dozen employees and customers of the businesses in the mini-mall or nearby at the Loaded Kitchen and Motel 6. Those who had a view of the pursuit said their attention was attracted by the squealing of tires or crashing of cars. All who saw the officers immediately recognized them as police based on their green vests and the word "Police" on their clothing. Some saw portions of the foot pursuits as individuals fled from the Audi and some heard commands such as "Stop," "Police!" or "Don't move!" before they heard gun shots. Essentially all of these witnesses took cover and did not see any more interaction between officers and Hall, Thomas, or Mitchell. To the extent that they heard gun shots or saw weapons pointed, none of their statements conflicted with what is visible on the video or described by the involved officers. The employees of the Metro PCS store said that the individuals who entered their store before the police came seemed nervous or suspicious.

One witness who was working at the front desk at the Motel 6 looked up in time to see Mitchell racing southbound across PCH and get struck by Camrin's unmarked vehicle. She saw that Mitchell immediately got up and continued running southbound. Residents of the house on Cerritos that Mitchell entered said that they did not know him and did not invite him in to change his clothes.

### **Statements of Individuals Subjected to Use of Force**

Investigators interviewed Mitchell three days after the OIS. He told them that the night before the OIS, he slept at his girlfriend's apartment on Cerritos Avenue, south of PCH. He left in the morning to do various family-related errands before returning, parking his Honda near the apartment, and walking to a smoke shop on PCH. He claimed his friend, Hall, stopped in a black Audi and gave him a ride to the nearby Little Caesars, where he bought a pizza. After getting back into the Audi and starting to ride away, he saw a police officer exit a vehicle behind them. Because Mitchell had an outstanding arrest warrant he "freaked out," jumped out of the car, dumped the pizza, and started running, even though the officer told him to "freeze." He was hit by an undercover police vehicle as he ran across PCH, but he got up and kept running. He claimed that the residents of a house on Cerritos invited him to change his clothes.

Hall and Thomas did not provide statements.

## Physical evidence

Two ejected cartridge casings were located near the mini-mall driveway which exits to Lemon Avenue. One round was found embedded in the wall of the Davita Clinic, behind where Thomas fell. Another round was recovered from Thomas during surgery. Investigators recovered discarded and bloody clothing, shoes, a wallet and phone from along the path Thomas took towards the corner of the lot where he fell.

Investigators located discarded and bloody clothing, shoes, and jewelry from along the path of Mitchell and Hall as they ran across PCH, away from the scene. Across Lemon Avenue, next to where the Audi crashed, was an ejected casing. Another casing was found nearby on the windshield of an unmarked LBPD Toyota SUV. One round was recovered south and east of this area, in a storage room of the Motel 6. A possible bullet hole in a nearby air conditioner corresponded with statements of witnesses at the Motel 6 who described hearing car tires squealing, crashes, gun shots, and then a strange noise from the air conditioner.

A firearms analysis linked the rounds recovered from Thomas' abdomen and the clinic wall to Anguiano's gun and linked the round from the storage room to Brown's gun. No other firearms evidence was recovered from the exterior portions of this scene. The bullet count from the clips submitted by Anguiano and Brown corroborated their accounts of both having fired two rounds.

Investigators recovered a loaded revolver and a Mercedes Benz key fob from inside the Metro PCS store. There were six .32 caliber rounds in the revolver. Lewis was recorded on the store security cameras leaving the key fob on a shelf in the store and later, as the pursuit began, ducking behind the ATM where the revolver was subsequently found. The key fob opened the Mercedes Benz left parked in the lot. Investigators searched the car and located a bag with 15 shotgun shells in the trunk. The shells were compared to the wadding left in the street next to the murder victim and determined to be a match. Investigators searched the Audi and found a 50 count box of the same brand of .32 caliber ammunition as was loaded in the revolver Lewis abandoned in the PCS store. The box in the Audi contained 44 rounds. None of the individuals who fled the police were personally armed at the time they fled.

## **LEGAL ANALYSIS**

Any police officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect an arrest, prevent escape, or overcome resistance. Penal Code section 835a. California law permits the use of deadly force by police officers when necessary to effect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. People v. Ceballos (1974) 12 Cal.3d 470, 477-484; Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333; Tennessee v. Garner (1985) 105 S.Ct. 1694. Murder is an inherently dangerous, forcible, and atrocious felony. Ceballos, supra, 12 Cal.3d at 479.

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.

An officer has “probable cause” in this context when he knows facts which would “persuade someone of reasonable caution that the other person is going to cause serious physical harm to another.” CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody “appears to the officer likely to inflict great bodily injury on himself or those acting with him.” Id. at 1146; *quoting* People v. Bond (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a “lawful excuse” which precludes a conviction for murder. Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *see also* 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. 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. 505, 3470. Actual danger is not necessary to justify the use of deadly force in self-defense; if the person’s beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505, 3470. The prosecution has the burden of proving beyond a reasonable doubt that the killer did not act in self-defense. Id.

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. If the officer’s belief was objectively reasonable under the circumstances, an officer is not constitutionally required to wait until he sets eyes upon a weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun—even if it turns out the suspect was unarmed. *Thompson v. Hubbard* (2001) 257 F.3d 896, 899.

## **CONCLUSION**

The evidence examined in this investigation shows that LBPD CCAT detectives were engaged in an active investigation of a robbery/murder spree that had occurred fewer than twelve hours prior. Not far from the scenes of those crimes, the CCAT team encountered individuals and

vehicles matching the descriptions of the armed robbers. The driver of the victim's Audi had the same hairstyle as a member of the group pawning the victims' stolen items. Upon the approach of the CCAT unmarked vehicles, Hall immediately drove away recklessly, causing damage to other nearby vehicles. Mitchell and Thomas exited the car while it was moving and began to flee.

Security camera video corroborates Anguiano's observation that Thomas kept his right hand near his waistband as he made full strides towards the exit of the lot. Knowing that the weapons involved in the crime had not been recovered, Anguiano reasonably feared that Thomas could be reaching for a gun secured in his waistband to arm himself and evade arrest for a forcible and atrocious felony. Despite the obvious indicators that the police were ordering him to stop, Thomas accelerated away from the officers. Knowing that the lot was full of people and officers, and next to a dense residential neighborhood and park, it was reasonable for Anguiano to fear that Thomas would use deadly force to evade capture which could cause imminent and serious bodily harm to himself or others.

Several officers and passersby also saw Mitchell jump from the moving car, dump his pizza boxes, disobey orders to stop, and run into traffic lanes on PCH to evade the police. Both Everts and Camrin were alarmed to see him pulling on his waistband. Just as in the above-analysis, it was reasonable for them to fear that Mitchell could arm himself, resulting in serious bodily injury to other officers or nearby residents. Indeed, he was so desperate to flee that he entered a residence and sought to conceal his identity by changing his clothes.

Similarly, Hall drove away recklessly, crashed the Audi, and then seemed to take evasive action, reaching for his waistband and ignoring orders to stop, as he fled on foot towards a residential area.

The officers' reasonable beliefs that Thomas, Mitchell, and Hall posed imminent threats to them or to others warranted the use of lethal force to stop the threat. The fact that it was later determined that these individuals were unarmed when they exited the Audi does not change this result, because it was reasonable under the circumstances for Anguiano, Brown, and Everts to believe they were actually armed and dangerous.

Additionally, the shooting of Thomas and Hall, and the striking of Mitchell, were lawful because the facts and circumstances known to the officers at the moment they used deadly force or drove their vehicle gave them probable cause to believe these men had committed or aided the robbery and murder of multiple victims – a forcible and atrocious crime – and that they were still armed while he was trying to flee. Those facts, in conjunction with their apparent ability to escape into nearby residences, would lead a reasonable person to believe it was necessary to use deadly force to take either of these individuals into custody. Therefore, the shooting by Anguiano and Brown, and the use of force by Everts were lawful.

We conclude that Detectives Anguiano, Brown, and Everts used lawful and reasonable force in self-defense, or defense of others. We further conclude that they used lawful force in the apprehension of Mitchell, Hall, and Thomas, who they reasonably believed had been part of a robbery-murder spree, were armed, and were attempting to escape arrest. We are closing our file and will take no further action in this matter.