

**Fatal Officer Involved Shooting of Javier De Santiago
Inglewood Police Department**

**Officer Trevor Wilson #1032
Officer Travis Towle #974**

J.S.I.D. File #18-0292



Justice System Integrity Division

November 20, 2020

MEMORANDUM

TO: CHIEF MARK FRONTEROTTA
Inglewood Police Department
1 West Manchester Boulevard
Inglewood, CA 90301

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

SUBJECT: Fatal Officer Involved Shooting of Javier De Santiago
J.S.I.D. File #18-0292
I.P.D. File #18-42426

DATE: November 20, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 22, 2018, fatal shooting of Javier De Santiago by Inglewood Police Department (IPD) Officers Trevor Wilson and Travis Towle. We have concluded Officers Wilson and Towle acted lawfully in self-defense and defense of another.

The District Attorney's Command Center was notified of the shooting at approximately 12:30 a.m. on June 23, 2018. 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, firearm analysis reports, coroner's reports, surveillance video, photographs, and witness statements submitted to this office by IPD Detectives Gabriel De La Torre and Luis Rodriguez. Officers Wilson and Towle provided voluntary statements that were considered as part of this analysis.

FACTUAL ANALYSIS

On June 22, 2018 at approximately 11:59 p.m., IPD Officers Trevor Wilson and Travis Towle were working uniformed patrol in a marked vehicle. Wilson was driving the vehicle and Towle was the passenger. The officers left IPD station through the west alley of La Brea Avenue and stopped at a stop sign at the south end of the alley with their windows rolled down. They observed Javier De Santiago walking westbound in front of their patrol car. De Santiago stopped approximately 40 to 50 feet in front of the car, faced the officers, and yelled, "Hey!" Using his right hand, De Santiago pulled a black handgun¹ from his waistband and pointed the weapon in the officers' direction.

¹ Wilson and Towle both believed the firearm was a real handgun at the time of the incident. The handgun was later recovered and determined to be a CO2 Air revolver.



Still photograph from surveillance footage showing De Santiago pointing his weapon toward Wilson and Towle's patrol car.

Towle's Statement

Towle believed he and Wilson were being ambushed by De Santiago. In fear for his and his partner's life, he exited the passenger side door of the patrol car and fired his duty weapon at De Santiago approximately five times. Towle took cover inside the patrol car and temporarily lost sight of De Santiago. Towle emerged from the patrol car seconds later and saw that De Santiago had repositioned himself closer to the passenger's side of the car, and in a manner that provided De Santiago with a clear line of fire at Towle. De Santiago moved toward Towle while pointing his gun at him. Still in fear for his life, Towle discharged his weapon an additional five times. De Santiago collapsed to the ground. As he did so, his gun fell from his hands and landed on the ground in between De Santiago's feet. Unable to see De Santiago's left hand, Towle took cover behind a nearby cement planter until additional units arrived.

Wilson's Statement

Once De Santiago pointed his weapon at the officers, Wilson dropped down in the driver's area of the patrol car to take cover. He lost sight of De Santiago at that time. As Wilson opened the driver's side door of the car, he heard multiple gunshots and believed De Santiago was shooting at him and his partner. Wilson exited the patrol car, stayed low, and walked toward the rear of the car. He once again observed De Santiago standing with his gun pointed in the officers' direction. In fear for his and Towle's life, Wilson discharged his duty weapon twice in quick succession. He moved toward the front of the patrol car and radioed for assistance. De Santiago was on the ground and moving slightly. Wilson yelled, "Don't move!" and maintained visual contact of De Santiago until additional units arrived.

Surveillance Video

IPD surveillance video captured the incident. In the video, De Santiago stops and faces Wilson and Towle's patrol car. He draws a weapon from his waistband and points it toward the patrol car. De Santiago begins shuffling backwards while still pointing the gun in the officers' direction. Muzzle flashes are seen emanating from the area of the patrol car as De Santiago runs away and out of the camera's view.

Seconds later, De Santiago returns within the camera's view and is seen running westbound toward the patrol car with his weapon pointed at the officers. He suddenly stops and raises both hands outward (in a "Y" position), with the weapon still in his right hand. He turns around, facing away from the patrol car and places his hands over his head. He suddenly turns his body toward the officers and moves his right hand across his body in the officers' direction. Muzzle flashes are seen emanating from the patrol car and De Santiago falls to the ground, remaining motionless thereafter. The first of several additional police units arrives 30 seconds later.



Still photograph from surveillance footage showing De Santiago running westbound with his weapon pointed at the officers.



Still from surveillance footage showing De Santiago turning toward the officers before being shot.

An arrest team was established and approached De Santiago. Officer Troy Wunderlich recovered a knife from De Santiago's right front pants pocket and a Brodax CO2 revolver from between De Santiago's feet. Officers began rendering aid until Los Angeles County Fire Department (LACFD) paramedics and McCormick's paramedics arrived and took over life saving measures. LACFD Captain Hugo Cortez pronounced De Santiago deceased at 11:23 p.m.



De Santiago's CO2 revolver.

Several individuals were in the IPD lobby during the time of the shooting. Those interviewed stated they heard gunshots but did not observe the shooting.

Deputy Medical Examiner Vadims Poukens performed an autopsy on June 27, 2018. He determined De Santiago's cause of death to be multiple gunshot wounds. The autopsy revealed De Santiago had sustained two gunshot wounds, both deemed to be fatal: one to his left chest and one to his left abdomen.

Subsequent interviews with De Santiago's family revealed he suffered from schizophrenia. A suicide note was recovered from De Santiago's residence.

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 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.

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.3^d 325, 333.

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.

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.*

“Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” *People v. Collins* (1961) 189 Cal.App.2d 575, 589. 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 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.

In the instant matter, De Santiago pointed an air pistol at Wilson and Towle, who reasonably believed the weapon to be a real firearm. Not realizing the weapon was not an actual firearm, both officers reasonably believed they were being ambushed, feared for their lives, and opened fire at De Santiago. De Santiago ran a short distance, then returned with his pistol still pointed in the officers’ direction. He faced away from the officers and placed his hands above his head. He suddenly turned around and moved his right hand (which held the weapon) toward the officers. Reasonably in fear for their lives, the officers again fired their weapons. Although it was later determined that De Santiago’s firearm was an air pistol, this fact does not change the analysis. Wilson and Towle’s use of deadly force was reasonable under the circumstances.

CONCLUSION

We find that Officers Wilson and Towle acted lawfully in self-defense and defense of another when they used deadly force against Javier De Santiago. We are closing our file and will take no further action in this matter.