

**Fatal Officer Involved Shooting of
Sawandi Asad Toussaint-Anderson
El Monte Police Department**

**Corporal Daniel Jauregui #598
Detective Jacob Burse #651
Officer Luis Mijangos #690
Officer Isaac Rodriguez #636**

J.S.I.D. File #19-0435



Justice System Integrity Division

November 23, 2020

MEMORANDUM

TO: CHIEF DAVID REYNOSO
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Sawandi Asad Toussaint-Anderson
J.S.I.D. File #19-0435
L.A.S.D. File #019-00085-3199-013

DATE: November 23, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 12, 2019, fatal shooting of Sawandi Asad Toussaint-Anderson by El Monte Police Department (EMPD) Corporal Daniel Jauregui, Detective Jacob Burse, and Officers Luis Mijangos and Isaac Rodriguez. We have concluded Corporal Jauregui, Detective Burse, and Officers Mijangos and Rodriguez acted lawfully in self-defense and defense of another.

The District Attorney's Command Center was notified of the shooting at approximately 3:35 p.m. on October 12, 2019. 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, surveillance video footage, cell phone video footage, transcripts of interviews, firearm analysis reports, coroner's reports, photographs and witness statements submitted to this office by Los Angeles County Sheriff's Department (LASD) Homicide Division Detectives George Morales and Robert McGaughey. The voluntary statements of the involved officers were considered as part of this analysis.

FACTUAL ANALYSIS

On October 12, 2019 at 2:40 p.m., EMPD received a 9-1-1 call regarding an active shooter at the Metropolitan Transit Authority (MTA) bus station, located at 3501 Santa Anita Avenue in the City of El Monte. The call indicated a suspect (later identified as Sawandi Asad Toussaint-Anderson)

was armed with a handgun, had fired rounds in the lower level of the bus station, and had run to the upper level.¹ EMPD issued a broadcast describing the suspect as a male with his hair in a ponytail, wearing a blue shirt and black backpack, and carrying a clear trash bag. At the time of the call, there were approximately ten to 15 people located on the upper level of the bus station.

Officer Luis Mijangos responded to the upper level of the bus station less than a minute after the broadcast was issued. At that time, he observed Toussaint-Anderson, who matched the suspect's description. Toussaint-Anderson looked in Mijangos' direction, then began running from him. Mijangos chased Toussaint-Anderson on foot. When Mijangos was approximately 20 feet from Toussaint-Anderson, Toussaint-Anderson stopped running and faced Mijangos. Simultaneously, Detective Jacob Burse pulled up to the location in his patrol car.



Mijangos chasing Toussaint-Anderson. Both men are running west and facing the same direction.

¹ Subsequent investigation and review of MTA surveillance video revealed Toussaint-Anderson exited a bus on the upper level of the station at 1:37 p.m. He took an elevator to the lower level of the station, where he attempted to steal a bicycle that another male rider had placed near a stairwell. This action led to a confrontation between the bicycle's owner and Toussaint-Anderson. Toussaint-Anderson began chasing the man, who ran up the stairwell to the upper level. Toussaint-Anderson removed a handgun from his backpack, went to the upper level of the station, and began walking around in search for the man. He returned back to the lower level, and exchanged words with another man while pointing the handgun at him. Toussaint-Anderson walked away from him and, several minutes later, fired two rounds at the wall of the bus station.

Toussaint-Anderson looked at Burse's patrol car, then back at Mijangos. Mijangos drew his weapon, pointed it at Toussaint-Anderson and ordered him to the ground approximately five to six times. At this time, Burse exited his vehicle and positioned himself approximately 15 feet behind Toussaint-Anderson, while armed with his department-issued rifle.²

Mijangos believed he heard Toussaint-Anderson state, "It's just a B.B. gun, man," while holding his backpack near his chest. Toussaint-Anderson reached into the backpack with his right hand as Mijangos continued ordering him to the ground. Toussaint-Anderson did not go to the ground, and proceeded to remove a semiautomatic firearm from his backpack. Mijangos ordered Toussaint-Anderson to drop the weapon, but Toussaint-Anderson ignored the command and pointed the gun at Mijangos. Believing Toussaint-Anderson was going to shoot him or nearby civilians, Mijangos fired three rounds, striking Toussaint-Anderson.



Toussaint-Anderson turning toward Mijangos (positioned outside of the camera's view) with a gun in his hand. Due to the camera angle and frame parameters, it is unclear from the video whether Toussaint-Anderson pointed the gun at Mijangos.

Officer Isacc Rodriguez and Corporal Daniel Jauregui arrived at the location and parked their vehicles adjacent to Burse's patrol car. After being shot, Toussaint-Anderson maintained a grip on

² Burse told investigators he armed himself with his rifle because, due to the nature of the broadcast, he believed the suspect was armed and posed a risk to bystanders.

his firearm and, still standing, turned to his left in Burse's direction. Burse fired two rounds at Toussaint-Anderson, who then fell to the ground.



Toussaint-Anderson turning in Burse's direction before being shot by Burse.

Hearing gunfire, Rodriguez and Mijangos made their way toward Burse, as Jauregui positioned himself approximately ten to 15 feet southeast of Toussaint-Anderson. Toussaint-Anderson began pushing himself off the ground, while still holding the gun. Burse and Rodriguez ordered Toussaint-Anderson to drop the gun, but he ignored those commands. Jauregui began ordering the civilians to leave the area for their safety.

Toussaint-Anderson continued to push himself upward. Fearing Toussaint-Anderson was about to shoot, Burse fired two additional rounds and Rodriguez and Jauregui each fired one round. Toussaint-Anderson fell back to the ground and his body went limp. Burse requested medical attention via his handheld radio.



Toussaint-Anderson attempting to push himself up before officers fired additional rounds. Jauregui was positioned outside of the camera's view.

Mijangos approached Toussaint-Anderson and observed that Toussaint-Anderson's right hand was still gripping the gun's handle. Mijangos handcuffed Toussaint-Anderson at that point.³ Paramedics arrived approximately five minutes later to treat Toussaint-Anderson. He was pronounced deceased at 3:04 p.m.

Deputy Medical Examiner Doctor Julie Huss-Bawab performed an autopsy on October 16, 2019. She determined Toussaint-Anderson's cause of death to be "multiple gunshot wounds." Toussaint-Anderson sustained eight gunshot wounds in the following locations: left forehead, left eye, right cheek, right upper mid back, right mid back, left lower back, right upper arm, left upper arm.

Investigators retrieved Toussaint-Anderson's firearm from the scene, which they identified as an H&K USP .45 caliber pistol. The pistol's magazine was empty. The chamber was loaded with one round and the hammer was cocked.

³ Mijangos was accompanied by a group of officers as he handcuffed Toussaint-Anderson, which obscured some details from the surveillance camera's view. It is unclear from both the surveillance video and Mijangos' statement whether Mijangos removed the gun from Toussaint-Anderson's hand before or after handcuffing him.



Toussaint-Anderson's pistol.

Several individuals were interviewed concerning their observations. Thaily R. was seated on the upper level of the bus station when she saw Mijangos chasing Toussaint-Anderson. Toussaint-Anderson pulled a gun from his backpack and faced Mijangos before being shot. Thaily R. ran from the location and heard (but did not observe) subsequent gunfire. She provided investigators with cell phone video she took, which is consistent with her observations and Mijangos' account, and shows Toussaint-Anderson holding a gun.



Still from Thaily R.'s cell phone footage showing Toussaint-Anderson holding a gun in his hand as Mijango points his weapon at him.

Klaudya V. was seated on the upper level of the bus station when she heard Mijangos yelling at Toussaint-Anderson to, "Get on the floor!" and "Drop the bag!" while pointing his gun at him. Toussaint-Anderson reached into his backpack and was shot by Mijangos. Klaudya V. fled the location and made no further observations.

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.3d 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. “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.

“[I]t stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.” *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012.

In the instant matter, EMPD officers responded to the location based on a call of an active shooter. They made contact with Toussaint-Anderson, who matched the suspect’s description. There were multiple bystanders in the immediate vicinity. Toussaint-Anderson retrieved a loaded gun from his backpack and pointed it at Mijangos. Reasonably in fear for his life, Mijangos fired three rounds in response, striking Toussaint-Anderson who remained standing and still holding a gun. Toussaint-Anderson turned toward Burse. In fear for his life, Burse fired three rounds at Toussaint-Anderson. Toussaint-Anderson fell to the ground, but remained armed. Toussaint-Anderson attempted to pull himself up despite repeated commands from officers. In response, Burse, Rodriguez, and Jauregui fired additional rounds at Toussaint-Anderson. The officers’ response with deadly force was reasonable under the circumstances, as they feared for their lives and those of the bystanders positioned nearby.

CONCLUSION

We find that Corporal Jauregui, Detective Burse, and Officers Mijangos, and Rodriguez acted lawfully in self-defense and defense of another when they used deadly force against Sawandi Asad Toussaint-Anderson. We are closing our file and will take no further action in this matter.