

**Officer Involved Shooting of Ruben Randolph  
Pomona Police Department**

**Corporal Richard Aguiar, #40002  
Officer Michael Osmundson, #40220  
Officer Theophilus Joseph, #40126**

**J.S.I.D. File #17-0010**



**JACKIE LACEY  
District Attorney  
Justice System Integrity Division  
January 22, 2018**

**MEMORANDUM**

TO: CHIEF PAUL J. CAPRARO  
Pomona Police Department  
490 West Mission Boulevard  
Pomona, California 91766

CAPTAIN CHRISTOPHER BERGNER  
Los Angeles County Sheriff's Department  
Homicide Bureau  
1 Cupania Circle  
Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Ruben Randolph  
J.S.I.D. File #17-0010  
L.A.S.D. File #017-00002-3199-013

DATE: January 22, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 4, 2017, fatal shooting of Ruben Randolph by Pomona Police Department (PPD) Corporal Richard Aguiar, Officer Michael Osmundson, and Officer Theophilus Joseph. It is our conclusion that Corporal Aguiar and Officers Osmundson and Joseph acted in lawful self-defense and in lawful defense of another.

The District Attorney's Command Center was notified of the shooting on January 4, 2017, at approximately 8:29 p.m. The District Attorney Response Team (DART) responded and was given a briefing and a walk-through of the scene.

The following analysis is based on various reports submitted by the Los Angeles County Sheriff's Department (LASD) Detective Division, Homicide Bureau and by the Pomona Police Department (PPD).

**FACTUAL ANALYSIS**

The 900 block of North San Antonio Avenue in the City of Pomona consists of five contiguous apartment buildings and is bounded on the north by East Columbia Avenue, on the west by an alley running north and south and on the south by East Alvarado Street. The five apartment buildings at this location are situated from north to south and bear the following addresses: ■■■ North San Antonio Avenue, ■■■ North San Antonio Avenue, ■■■ North San Antonio Avenue, ■■■ North San Antonio Avenue, and ■■■ North San Antonio Avenue. A north/south driveway,

which is accessible to all five apartment buildings, is located parallel to the alley which forms the western boundary of the property.



**Aerial View of the Five Apartment Buildings on the 900 block of North San Antonio Boulevard**

On January 4, 2017, N [REDACTED] W [REDACTED] was employed as the manager of the complex located at [REDACTED] North San Antonio Avenue and resided on the premises in [REDACTED] with her boyfriend L [REDACTED] M [REDACTED]. Apartment [REDACTED] is located on the north end of the apartment complex and the front door faces toward East Columbia Avenue. W [REDACTED] was also the apartment manager for the complexes at [REDACTED] North San Antonio Avenue and [REDACTED] North San Antonio Avenue.

Ruben Randolph, M [REDACTED]'s cousin, resided in Apartment [REDACTED] of [REDACTED] North San Antonio Avenue, the apartment complex located immediately adjacent to [REDACTED] North San Antonio Avenue. Randolph and M [REDACTED] had been raised together by M [REDACTED]'s mother and M [REDACTED] had assisted Randolph in procuring his apartment.

As part of her work as the apartment manager, W [REDACTED] would collect Randolph's rent on a monthly basis but would never enter his apartment because he was "weird," acted paranoid and had once told her that he wanted to kill the children who played outside. W [REDACTED] had also previously seen Randolph with a handgun. In addition, W [REDACTED] had twice called the police due to Randolph's strange behavior, hoping that he would be detained for a mental evaluation. W [REDACTED] was also aware that Randolph had suffered from mental health issues and was taking medication.<sup>1</sup>

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<sup>1</sup> PPD investigators spoke to Randolph's sister, C [REDACTED], who confirmed that Randolph had suffered from mental health issues, including PTSD. C [REDACTED] R [REDACTED], Randolph's wife, informed investigators that Randolph was an alcoholic and had been sober for approximately 15 years, but had recently relapsed. In addition, C [REDACTED] told investigators that Randolph was both bi-polar and schizophrenic, but had not taken medication for approximately 8 to 9 years. According to C [REDACTED], Randolph had several verbal "run ins" with W [REDACTED] due to his bi-polar behavior.

On January 4, 2017, at approximately 7:00 p.m., Randolph knocked on the door of W■■■■'s apartment. W■■■■ was at home with M■■■■, her niece K■■■■ (12), and four other minor children under her care ranging from the age of two to the age of seven. Two other minor children from an adjacent apartment were also visiting at her home.<sup>2</sup>

M■■■■ answered the door. Randolph told M■■■■ that someone had killed his mother and sister and asked M■■■■ to step outside the apartment. M■■■■ refused and the two men walked into the master bedroom area of the apartment to talk.

W■■■■ was in the kitchen cooking as she held a two-year-old. She could overhear the men's conversation but could not understand specifically what was being said. Without warning, Randolph pulled out a handgun and shot M■■■■ once in the chest.

Randolph then walked into the kitchen and pointed the gun at W■■■■, who was still holding the child in her arms. W■■■■ grabbed at the gun to prevent Randolph from shooting her and asked him, "Ruben, what's wrong with you?" Without responding, Randolph shot W■■■■ in the upper chest, thigh and right ankle.<sup>3</sup> W■■■■ collapsed after being shot. The bullets did not strike the child.

K■■■■ ran outside of the apartment where she encountered her friend T■■■■ and two boys whom she knew from the surrounding apartment buildings. K■■■■ asked T■■■■ to call 9-1-1. T■■■■ and K■■■■ then ran to ■■■ North San Antonio and entered Apartment ■■■, where T■■■■'s mother, J■■■■ R■■■■, lived. K■■■■ and T■■■■ told R■■■■ that Randolph had shot W■■■■ and M■■■■, and asked her to call the police.

The remaining minors did not follow K■■■■ and instead remained behind in the apartment with W■■■■. M■■■■, bleeding heavily, exited the apartment and walked down East Columbia Avenue where he saw H■■■■ W■■■■■■■■, who was playing football with four friends at the north end of the driveway situated next to the apartment buildings. M■■■■ stated, "I've been shot. I've been shot. Call the police." W■■■■■■■■ then saw M■■■■ hide behind a car on the south side of East Columbia Avenue.

Shortly thereafter, W■■■■■■■■ noticed Randolph coming out of Apartment ■■■ holding a handgun. When Randolph began to walk towards W■■■■■■■■ and his friends, they ran down the driveway to ■■■ North San Antonio Boulevard where W■■■■■■■■ rushed into his apartment and told his mother to call the police because "Ruben" had just shot W■■■■ and M■■■■.

A few moments later, Randolph walked into the courtyard area of W■■■■■■■■'s apartment building and fired a shot through R■■■■■■■■'s window. R■■■■■■■■ called 9-1-1.

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<sup>2</sup> The names of minors have not been included in this memo unless necessary.

<sup>3</sup> The description of W■■■■'s injuries is based upon medical reports which vary from W■■■■'s description of her injuries. Two days after the incident W■■■■ stated that she had been shot in the upper shoulder, lower back, right thigh, left thigh and twice in the right foot. From the evidence reviewed, it appears that W■■■■ did not differentiate between bullet entry and exit wounds or multiple wounds likely caused by one bullet. However, she had previously described being shot three times: in the chest, left thigh and right ankle.

M■■■■, who had initially taken shelter behind a car on the south side of East Columbia Avenue, crossed the street to ■■■■ Columbia Avenue where he attempted to enter the home of V■■■■ B■■■■. B■■■■ did not let ■■■■ into her home but agreed to call 9-1-1. After seeking help at another home close by, M■■■■ ultimately collapsed on the front lawn of 781 East Columbia Avenue, where he was later found by police officers.

The Pomona Police Department received several 9-1-1 calls regarding shots fired at ■■■■ North San Antonio Avenue. Corporal Richard Aguiar and Officer Michael Osmundson were the first officers to respond to the location. Both Aguiar and Osmundson were dressed in their police department uniform.

Osmundson and Aguiar parked their vehicles near the intersection of San Antonio Drive and Columbia Street and walked to the south side of Columbia Street where they saw W■■■■ lying down, wounded, near the doorway of her apartment.<sup>4</sup> She told the men that “Ruben” had shot her. The officers heard gunshots coming from close by and moved into the street where they used cars parked on the south side of East Columbia Street for cover as they continued west. Aguiar walked in front of Osmundson and both men scanned the street for the source of the gunshots. A person on the north side of East Columbia Street pointed across the street to the north/south driveway abutting the apartment complexes, and told them the shooter was there.

As Osmundson and Aguiar moved closer to the driveway, Randolph emerged from the driveway and came partially around the northwest corner of the apartment building. Randolph fired at Aguiar who ran and dove between two cars parked on the north side of East Columbia Street. Osmundson fired one round at Randolph and Randolph fired again at Aguiar as he took cover behind a car. As Aguiar continued moving west down East Columbia Street to outflank Randolph, Randolph fired at him once more. Aguiar yelled “Stop!” at Randolph. Randolph fired at Aguiar and Aguiar returned fire. Randolph fired again at Aguiar as he retreated south down the driveway.<sup>5</sup>

Several other officers including Joseph Hernandez and Theophilus Joseph, both K-9 units, also responded to the 9-1-1 call and positioned themselves near the south end of the driveway. Officer Joseph, who was positioned on the southeast end of the alley, heard two gunshots and saw muzzle flashes coming from the north end of the driveway where Randolph was situated, but could not tell in which direction the shots were fired. Joseph moved to the southwest corner of the driveway.

As Hernandez moved into the open towards Joseph’s location at the southwest corner of the driveway, Randolph fired one round in Hernandez and Joseph’s direction. Joseph dropped to his knee and shot at Randolph. Aguiar, who was across the street on East Columbia Street, also fired at Randolph, who almost immediately fell to the ground.<sup>6</sup>

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<sup>4</sup> Apartment ■■■■ is situated on the north side of the apartment building along East Columbia Street.

<sup>5</sup> Witnesses S■■■■ N■■■ and V■■■■ B■■■■, residents of the north side of East Columbia Street, both witnessed Randolph shooting at Pomona police officers as they engaged him and ordered him to drop his gun.

<sup>6</sup> In their statements, each officer recalled firing a shot and seeing Randolph almost immediately fall to the ground, indicating that each man shot at Randolph almost simultaneously.



Hernandez sent his canine unit down the driveway to confirm that Randolph was incapacitated and called out to Randolph to see if he would respond. Joseph and the other officers determined that Randolph was unresponsive. Officer Edward Lee, along with other officers, approached Randolph, handcuffed him and ultimately recovered a semi-automatic handgun from underneath his body. Later, Los Angeles County Coroner's Investigator Marlene Navarro found 10 unfired cartridges in Randolph's pants pocket.



**Gun used by Randolph recovered from underneath his body.**

W█ and M█ were transported to the hospital for treatment of their gunshot wounds. Both survived. Paramedics responding to the crime scene determined that Randolph was deceased.

During their investigation, PPD officers learned that Randolph had also fired a round at Apartment █ located at █ North San Antonio Avenue.

On January 6, 2017, Deputy Medical Examiner Scott Luzi conducted an autopsy of Randolph's body and determined that Randolph had sustained three gunshot wounds, specifically a non-fatal gunshot wound to the left hip, a fatal gunshot wound to the back, which severed Randolph's spinal cord and spinal artery, and a non-fatal gunshot wound to the front left shoulder.

Blood samples taken from Randolph's body tested presumptively positive for the presence of marijuana.

## **LEGAL ANALYSIS**

The use of deadly force in self-defense or in the defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505*.

The test for whether an officer's actions were objectively reasonable is "highly deferential to the

police officer's need to protect himself and others.” *Munoz v. City of Union City* (2004) 120 Cal.App.4<sup>th</sup> 1077, 1102. Reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Graham v. Connor* (1989) 490 U.S. 386, 396. “The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.* “The calculus of reasonableness must embody allowance for the fact that police 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.” *Id.* at 396-97.

In California, the evaluation of the reasonableness of a police officer's use of deadly force is determined by applying a reasonable person acting as a police officer standard. *People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 1146 (holding that California law “follows the objective ‘reasonable person’ standard—the trier of fact is required to evaluate the conduct of a reasonable person in the defendant's position [citations omitted] . . . the jury should consider all relevant circumstances surrounding the defendant's conduct. This enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation—but this is not the same as following a special ‘reasonable police officer’ standard.”).

## CONCLUSION

In the present case, Randolph's extraordinarily dangerous conduct led Corporal Aguiar, and Officers Osmundson and Joseph to reasonably believe that they and the residents of the apartments on the 900 block of San Antonio Boulevard were in imminent danger of being killed or of suffering great bodily injury. By the time PPD officers arrived at [REDACTED] North San Antonio Boulevard, Randolph had shot W [REDACTED] and M [REDACTED] and had also shot into J [REDACTED] R [REDACTED]'s apartment as she was inside with her son and W [REDACTED]'s niece K [REDACTED].

Randolph did not stop his violent conduct after shooting M [REDACTED] and W [REDACTED] and into J [REDACTED] R [REDACTED]'s occupied apartment. Instead, as Officer Osmundson and Corporal Aguiar walked closer to Randolph on East Columbia Street, Randolph fired multiple times at Aguiar who was forced to take cover. Knowing that their lives and the lives of others were in grave danger, both Osmundson and Aguiar fired multiple times at Randolph to stop his violent rampage. Randolph, however, did not put down his weapon or comply with Aguiar's command to stop. Instead, as he retreated down the driveway, Randolph fired his weapon at Aguiar once more and then fired south towards Officers Joseph and Hernandez. In defense of themselves and others, Corporal Aguiar and Officer Joseph fired at Randolph, ending his deadly attack.

The evidence reviewed in this case demonstrates that Officer Osmundson, Officer Joseph and Corporal Aguiar acted in lawful self-defense and in the lawful defense of others. We are therefore closing our file and will take no further action in this matter.