

Officer Involved Shooting of Daniel Carver

Los Angeles Police Department

**Officer Oscar Granillo #42366
Officer Eduardo Guillen #42367**

J.S.I.D. File #18-0147



JACKIE LACEY

District Attorney

Justice System Integrity Division

January 13, 2020

MEMORANDUM

TO: COMMANDER ROBERT E. MARINO
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: Officer Involved Shooting of Daniel Carver
J.S.I.D. File #18-0147
F.I.D. File #F023-18

DATE: January 13, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 9, 2018, fatal shooting of Daniel Carver by Los Angeles Police Department (LAPD) Officers Oscar Granillo and Eduardo Guillen. We have concluded Officers Granillo and Guillen acted lawfully in self-defense and defense of another.

The District Attorney's Command Center was notified of the shooting at approximately 11:14 a.m. on April 9, 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, Digital In-Car Video System (DICVS) footage, Body Worn Video (BWV) footage, surveillance video footage, transcripts of interviews, firearm analysis reports, coroner's reports, photographs and witness statements submitted to this office by LAPD Force Investigation Division Detective Blair Grabiak. The compelled statements of the involved officers were not considered as part of this analysis.

FACTUAL ANALYSIS

On Monday, April 9, 2018 at 10:06 a.m., LAPD Topanga Division received a LoJack Stolen Vehicle Recovery System alert corresponding to a 1997 Ford Explorer. Officers Granillo and Guillen began following the stolen vehicle. As the Explorer prepared to make a left turn, both officers observed the driver (later identified as Daniel Carver) furtively reach toward the passenger side of the vehicle. Granillo broadcast a request for Air Support and additional units based on that movement.

Granillo and Guillen activated their patrol vehicle's emergency lights and siren in order to initiate a high risk traffic stop. Carver failed to yield, and a pursuit ensued.¹ Air patrol tracked Carver and his vehicle and subsequently advised Granillo and Guillen to back off from the Explorer. After losing sight of the Explorer, Granillo and Guillen were advised the Explorer had turned east into an alley, and the driver had abandoned the car and was hiding in vegetation on the north side of the alley. Granillo and Guillen eventually located Carver crouched in the vegetation, holding a soft-sided cooler in front of him. Carver looked in the officers' direction, then began running. Granillo and Guillen began pursuing Carver on foot.

The officers shouted commands at Carver during the foot pursuit, stating they would tase or shoot him if he did not stop. Carver said, "No," in response to their orders, and continued running. While running, Carver held his cooler bag in front of him with the strap over his left shoulder and periodically looked back over his right shoulder.

At one point, Carver slowed his pace. He then removed a stainless steel .38 caliber revolver from the cooler bag, turned to his left, and faced the officers. Carver held the revolver with a two-handed grip, pointed it at the officers, and fired.² Granillo and Guillen immediately unholstered their pistols, dropped to the ground, and simultaneously returned fire at Carver.³

Carver fell to the ground then rose to a seated position while pointing his revolver at the officers. He then attempted to stand as both officers continued to fire. Carver subsequently fell face down to the ground and lost control of the revolver, which landed three feet from him.



View from Granillo's BWV when Carver turned and fired.

¹ The vehicle pursuit lasted over two minutes and spanned a distance of 1.58 miles.

² A subsequent analysis of the scene and Carver's revolver indicates he fired six rounds in the officers' direction.

³ Granillo and Guillen fired at Carver from a distance of 33 and 39 feet, respectively. Granillo fired a total of 17 rounds at Carver in rapid succession; Guillen fired a total of nine rounds.



View from Guillen's BWV when Guillen fell to the ground.



Carver's revolver.

Guillen sustained a gunshot wound to his left leg. He was transported to Northridge Hospital where he was examined and ultimately admitted. A one millimeter metallic fragment was identified in the gunshot wound, but medical staff opted not to recover the fragment. Guillen was released from the hospital on April 10, 2018.



Guillen's gunshot wound.

Granillo sustained abrasions to his right elbow and upper forearm as a result of his fall to the pavement. He was transported to Northridge Hospital. Medical staff treated Granillo for his abrasions and released him.

Carver was pronounced deceased at the scene on April 9, 2018. Associate Medical Examiner Doctor Julie Huss-Bawab performed an autopsy on June 26, 2018. She determined Carver's cause of death to be "multiple gunshot wounds." Carver sustained gunshot wounds to his right leg, right shoulder, left shoulder and mid-back, which Dr. Huss-Bawab determined were not immediately life threatening. She deemed a gunshot wound to Carver's head to be immediately life threatening. A subsequent toxicology test revealed Carver had amphetamine and methamphetamine in his blood at the time of death.

A canvas of the neighborhood revealed ten civilian witnesses who heard shots fired. There were no civilian eyewitnesses to the shooting.

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 § 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.2^d 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.

In the instant matter, Carver fired six rounds at Granillo and Guillen, striking Guillen in the leg. In response, and reasonably in fear for their lives, Granillo and Guillen returned fire. Their response with deadly force was reasonable.

CONCLUSION

We find that Officers Granillo and Guillen acted lawfully in self-defense and defense of another when they used deadly force against Daniel Carver. We are closing our file and will take no further action in this matter.