

**Officer Involved Shooting of Steve Martines  
Pomona Police Department**

**Officer Brad Paulson, #40434**

**J.S.I.D. File #17-0121**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**April 9, 2018**

## MEMORANDUM

TO: CHIEF MICHAEL OLIVIERI  
Pomona Police Department  
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CAPTAIN CHRISTOPHER BERGNER  
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Steve Martines  
J.S.I.D. File #17-0121  
P.P.D. File #17-02352

DATE: April 9, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 2, 2017, non-fatal shooting of Steve Martines by Pomona Police Department (PPD) Officer Brad Paulson. We find that Officer Paulson acted in lawful self-defense.

The District Attorney's Command Center was notified of this shooting on March 2, 2017, at approximately 2:30 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Los Angeles County Sheriff's Department (LASD) Lieutenant Joe Mendoza.

The following analysis is based on reports prepared by the LASD Homicide Bureau submitted to this office by Detectives Steve Blagg and Ken Perry. The reports include photographs, audio-recorded interviews of witnesses, radio transmissions, surveillance videotape, and dash camera videotape.

### **FACTUAL ANALYSIS**

#### **Introduction**

On March 2, 2017, at approximately 12:30 a.m., Steve Martines, age 24, pointed a gun at four occupants of a 2014 Toyota Camry and attempted to take the vehicle. The occupants exited the vehicle, ran away, and called 9-1-1. Martines was unable to drive away in the car so he ran. Officer Brad Paulson located Martines a short distance away and held Martines at gunpoint. Martines drew a gun and pointed it at Paulson, who ordered Martines to drop the gun and

surrender. Instead, Martines walked toward Paulson, took cover behind a light pole, and pointed the gun again at Paulson.

Paulson fired one shot at Martines, striking him in the chest and disabling him. Martines dropped the gun, which was later determined to be a BB gun that was a replica of a semiautomatic handgun.

Martines survived and was charged in case number KA114706 with four counts of attempted carjacking and one count of assault upon a peace officer. He pled no contest to those charges, admitted to being armed with a weapon, and was sentenced to nine years in state prison.

### **Dash Camera Footage of the Shooting**

A still photograph from Paulson's dash camera showing Martines pointing the gun at Paulson is shown below, circled in red:



A still photograph from Paulson's dash camera showing Martines repositioned behind a light pole, standing and pointing the gun at Paulson a second time is shown below, circled in red:



**Statement of Genesis B.**

Genesis B. was driving her 2014 Toyota Camry with three friends when Martines walked into the roadway, forcing her to stop the car to avoid hitting him. Martines pointed a black handgun at the vehicle, approached the driver’s side window, pointed the gun at Genesis B., and ordered everyone out of the vehicle. Genesis B. exited the vehicle, left the car running, and fled with her friends. She called 9-1-1 from a nearby supermarket.

**Statement of Bryan L.**

Bryan L. was the front passenger in Genesis B.’s vehicle when Martines walked into the roadway and pointed a black handgun at them. Martines approached the driver’s side of the vehicle. Fearing Martines was going to shoot into the vehicle, Bryan L. and the other occupants ran from the vehicle to a nearby market. When he looked back he saw Martines in the driver’s seat and he heard the engine revving.

**Statement of Salvador V.**

Salvador V. was seated in the backseat of the vehicle when he saw Martines walk into the roadway and force them to stop their car. Martines lifted up his shirt, drew a black handgun, pointed it at the vehicle, and ordered everyone out of the car. Fearing he was going to shoot,

Salvador V. and the others exited the vehicle and ran away. They called 9-1-1 from a nearby market.

### **Statement of Hector F.**

Hector F. was in the backseat of the vehicle when Martines walked into the street and forced them to abruptly stop the vehicle. Martines drew a black semiautomatic handgun and pointed it at the car. Martines approached the driver's window and pointed the gun into the car. Fearing he was going to shoot, Hector F. ran from the car. He heard Martines rev the engine of the car but the car did not move.

### **Statement of Steve Martines**

Investigators interviewed Martines in jail after he was released from the hospital. After waiving his *Miranda* rights, Martines said that he was armed with a BB gun, approached a vehicle in the middle of the street, and told the driver he needed the car. Martines said he did not point the gun at the driver but showed the occupants that he had a gun, which looked like a semiautomatic pistol. The occupants of the vehicle fled to a nearby store and Martines got in the vehicle to drive away with the car. However, once he entered the car he "couldn't do it" so he left the car in the road and went to look for someone to give him a ride somewhere to sleep for the night. He encountered a man at Sonic Burger but the man was not able to give him a ride.

As Martines was crossing a street, a police officer shined a light on him. Martines drew the "fake" gun from his pocket to show the officer it was not real. He angled the gun toward the officer in a way that the barrel was pointed at the officer and the officer could have been in danger. He also indicated that he "could" have pointed the gun at the officer while he hid behind a pole. He told the officer, "If you're going to shoot, then go ahead and shoot me." Martines estimated he was about 20 feet from the officer. The officer then shot him.

### **Statement of PPD Officer Brad Paulson**

Paulson provided a voluntary statement to investigators.

Paulson responded to a carjacking call and as he was investigating that call, he received another radio communication regarding a suspicious person at a nearby restaurant. PPD reported that the suspicious person was a male with blood on his face and wearing a blue "hoodie," who was asking people for a ride. The 9-1-1 caller said the man was possibly armed with a gun. As Paulson drove toward that location, he saw a man matching the 9-1-1 caller's description. Paulson illuminated the man, later identified as Martines, with the spotlight of his radio car. Martines turned to his right, looked at him, and continued to walk. After Paulson turned the spotlight off, Martines lifted his jacket and shirt with his left hand and pulled an object that appeared to be a handgun from his waistband with his right hand. Paulson broadcasted that he had an armed suspect at his location and requested assistance.

Paulson opened his door and ordered Martines to raise his hands. Martines raised what appeared to be a black semiautomatic handgun with his right hand and pointed the gun at Paulson. As Paulson took cover at the rear of his radio car, Martines took cover behind a light pole still pointing the gun at Paulson. Paulson yelled several times for Martines to drop the gun. Martines



stared directly at him as Paulson was yelling commands. Martines stepped from behind the pole, raised the gun with both hands and pointed it at him. Paulson again yelled for Martines to drop the gun. In response, Martines took a step toward Paulson while still pointing the gun at him from approximately 20 to 25 yards away. Fearing Martines would open fire on him, Paulson fired one round from his service weapon at Martines. Martines fell to the ground on his right side and the gun fell in the street.

### **Firearms Evidence**



Martines was in possession of a Daisy 426 Powerline BB gun, which is shown in the photograph above. The gun is CO2 powered and designed to expel .177mm BB's, and is therefore defined under California law as a "BB device."<sup>1</sup> It is further defined as an "imitation firearm" because it is a BB gun and a device "so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive the device is a firearm." Notably, in 2016, California passed, via SB-199, a new gun law to address the danger presented to law enforcement by imitation firearms. In passing that new law, the legislature noted the following rationale regarding the control of imitation firearms, including BB guns:

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<sup>1</sup> See Penal Code section 12001(g).

*Imitation guns are deliberately fabricated to be indistinguishable from real firearms. Law enforcement officers have extreme difficulty distinguishing these fake guns from lethal weapons, particularly when officers must react within seconds to emergency situations. One of the primary dangers posed by replicas is that such guns are used by children and young adults who may not comprehend the seriousness of displaying them around unsuspecting law enforcement officers or around armed individuals. As a result, officers and community residents can find themselves in precarious situations when unable to distinguish replica guns from handguns and assault weapons. On October 22, 2013, a thirteen-year-old boy from Santa Rosa was tragically shot and killed by Sonoma County deputies who mistook the plastic airsoft gun he was carrying for an actual AK-47. This tragedy is neither new nor uncommon. A 1990 study commissioned by the Department of Justice found that there are well over 200 incidents per year in which imitation guns are mistaken for real firearms.*

Paulson was armed with a .45 caliber “Springfield” Armory Model 1911 with a capacity of nine rounds. An inspection of his service weapon after shooting showed eight remaining rounds, which is consistent with the evidence that he fired one round. Detectives recovered one spent shell casing near where Paulson was standing at the time of the shooting. A single projectile was also found in the street.

### **Martines’ Injuries**

Martines was shot once in the chest, from front to back. He was treated and released from the hospital shortly after the shooting.

## **LEGAL ANALYSIS**

### **The Law**

California law permits the use of deadly force in self-defense or in the defense of others if that person actually and reasonably believes that he or others are in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073, 1082; *see also*, *CALCRIM* 505.

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* 3470. “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 the 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.” *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

The test of whether the 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. It is well-settled that, “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.

A police officer may also use reasonable force in making an arrest, preventing an escape, or in overcoming resistance. Reasonableness is judged from the perspective of a reasonable person acting as a police officer at the scene and considers the circumstances surrounding the use of force including: (1) whether the suspect poses an immediate threat to the safety of the officers or others, (2) whether the suspect is actively resisting arrest or attempting to evade arrest by flight, and (3) the severity of the crime at issue. *Penal Code* section 835a. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape. *Tennessee v. Garner* (1985) 471 U.S. 1.

### **Analysis**

Officer Paulson’s use of deadly force against Martines was justifiable. Martines was in possession of a BB gun, which appeared to be a real semiautomatic firearm. He pointed the gun at Paulson, took an offensive position behind a light pole, and pointed the gun at Paulson a second time, while ignoring Paulson’s orders to drop the gun and demanding that Paulson shoot him. There was no way for Paulson to know the gun was a replica at the time of the shooting. Paulson’s belief that Martines, who had just committed a violent crime, was intent upon shooting him was reasonable under the circumstances. Paulson’s belief that Martines posed a deadly threat was also shared by the occupants of the vehicle, who ran away in fear when Martines pointed the gun at them.

### **CONCLUSION**

Based on a review of the totality of the evidence in this case, we conclude that Officer Paulson was acting lawfully in self-defense when he used deadly force against Martines. We are closing our file and will take no further action in this matter.