

**Officer Involved Shooting of Darius S. and Charvis R.
Los Angeles County Sheriff's Department**

**United States Customs and Border Protection
Officer Quingyang Yue**

J.S.I.D. File #17-0261



JACKIE LACEY
District Attorney
Justice System Integrity Division
April 1, 2019

MEMORANDUM

TO: CAPTAIN KENT WEGGENER
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 Darrius S. and Charvis R.
J.S.I.D. File #17-0261
L.A.S.D. File #017-00055-3199-013

DATE: April 1, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 26, 2017, fatal shooting of Darrius S. and non-fatal shooting of Charvis R. by off-duty United States Customs and Border Protection (USCBD) Officer Quingyang Yue. It is our conclusion that Officer Yue acted reasonably and lawfully in self-defense when he used deadly force against Darrius S. and Charvis R.

The District Attorney's Command Center was notified of this shooting on May 26, 2017, at approximately 9:18 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LASD Lieutenant John Corina.

The following analysis is based on investigative reports, audio recorded interviews of witnesses, video footage, and photographs submitted to this office by the LASD Homicide Bureau.

FACTUAL ANALYSIS

On May 26, 2017, at approximately 8:14 p.m., USCBD Officer Yue was off-duty and walking home on First Avenue towards Colorado Boulevard when three individuals approached him from behind. One of the individuals, who was armed with a handgun, struck Yue in the head and demanded Yue's property at gunpoint. Yue drew his weapon and shot two of the robbers, later identified as Darrius and Charvis. Darrius later succumbed to his gunshot wounds and Charvis sustained multiple non-fatal gunshot wounds. The third robber, Stephon, fled the scene, but was later apprehended by officers.

Statement of Officer Quingyang Yue

Yue provided a voluntary statement to investigators. At the time of the incident, Yue worked at San Francisco International Airport as a Customs Officer. On May 26, 2017, Yue flew from San Francisco to Los Angeles International Airport, where he caught a "Flyaway" bus to Los Angeles Union Station before boarding the Metro Gold line train. Yue rode the train from Union

Station to the Arcadia stop where he exited. Yue began walking home northbound on the west sidewalk of First Avenue. Yue was listening to music through earphones, was wearing a backpack, and carrying a shopping bag while he was walking. Just as Yue walked north to La Porte Street, he heard what he believed to be footsteps and breathing coming from behind him. Immediately after, Yue was struck on the right side of his face three times with a hard object. Yue did not see what hit him, but believed the impact did not come from a fist. After the first two strikes, Yue put his right hand up to block the third strike. The force of the strikes caused Yue to stumble to his left on a grass area in front of 425 North First Avenue.

Immediately after being struck, three individuals jumped in front of Yue and surrounded him at a distance of three to five feet. One individual was approximately one foot to the right of Yue and another was slightly to the rear of him. The individuals were later identified as Charvis and Stephon, respectively. The third individual, Darrius, who was armed with a handgun, was standing directly in front of Yue. Yue felt trapped, and unable to run away. Darrius pointed a handgun at Yue and stated, "I got you! I got you!"¹

Yue thought about drawing his firearm, but decided against it as Darrius had his gun pointed at Yue.² Instead, Yue raised his hands into the air. Darrius then demanded Yue's iPhone, wallet, and backpack. Yue removed his backpack and threw it onto the grass west of the sidewalk to create space between himself and Darrius. Darrius moved towards the backpack and reached down for it and began to place the handgun in his pants. Darrius broke eye contact with Yue while Charvis and Stephon moved closer to Yue. Yue feared that Charvis and Stephon were going to search him, and discover that he had a gun and was a law enforcement officer. Fearing for his life, Yue drew his gun and shot Darrius who was still holding his gun in his hand. Charvis immediately lunged toward Yue with both hands as if he was going to grab Yue's gun. Yue turned toward Charvis and fired at him.

Darrius and Stephon ran east across First Avenue towards Colorado Boulevard. Darrius turned his body to the right and pointed his gun toward Yue. Fearing that Darrius may fire his gun at him, Yue again fired at Darrius. Yue lost sight of Darrius and Stephon as they ran and turned onto Colorado Boulevard. Yue turned his attention to Charvis and detained him at gunpoint. Yue tried to call 9-1-1, but realized his phone was dead. Yue asked Charvis if he had a cell phone with him and told him to call 9-1-1 to ask for an ambulance to assist him with his gunshot wounds. Charvis called 9-1-1 and told the operator, "Hello? 9-1-1? I just got shot . . . Something happened in front of me. I don't know what was going on and the victim shot me. It was an accident. He thought I was involved, right sir? He's an officer. You want to speak to him? Can you tell them I am shot? Can you tell them, sir? Please don't shoot me again, sir."³ Approximately 30 seconds later, Arcadia Police Department officers arrived at the location. Yue's handgun was taken by the officers and Yue was placed in the back of a patrol car. While in the back seat, Yue realized he was dizzy from the strikes to his face and head. Yue was treated at a nearby hospital for a contusion to his cheek.

¹ Yue described the gun as a black semiautomatic handgun with a stainless-steel barrel. It was later determined to be a black Umarex 9XP pellet gun.

² Yue was armed with his department issued firearm in a holster affixed to the interior of his right waistband.

³ A man's voice, later identified as Yue, can be heard in the background saying, "I need an ambulance!"

Statement of Officer Hank Lee

On May 26, 2017, Officer Lee was employed by Arcadia Police Department and was conducting a traffic stop in the area of First Avenue and Colorado Boulevard when he heard approximately seven to eight “pops,” which he thought were fireworks. Seconds later, Lee heard a broadcast on the radio regarding possible shots fired in the area. Lee drove his marked patrol vehicle east on Colorado Boulevard and then south onto First Avenue where he saw Yue pointing a handgun at Charvis, who was lying face down on the ground. Lee immediately exited his vehicle, drew his weapon, and pointed it at Yue. Lee sent out a broadcast regarding “a man with a gun” and requested additional police units. Lee ordered Yue to, “Slowly put your gun on the ground and don’t make any sudden movements.” Lee saw that Charvis was bleeding from an apparent gunshot wound and requested paramedics.

Yue produced a badge from his pocket. As Lee started to approach Yue, additional Arcadia police units arrived. Lee took custody of Yue’s weapon and handcuffed him before placing him in the back seat of his patrol vehicle and transporting him to Arcadia police station.

Statement of Officer Mario Castro

On May 26, 2017, Officer Castro was assigned to patrol with Arcadia Police Department, driving a marked patrol vehicle when he heard a broadcast regarding possible shots fired in the area of First Avenue and Colorado Boulevard. Castro then heard Lee’s broadcast, requesting assistance in detaining a man with a gun in the same area. Castro responded to Lee’s location and saw several other police units. As Castro was walking toward Lee and the other officers, he heard another broadcast that there was a “possible man down on Colorado.” Castro returned to his vehicle, drove to Colorado Boulevard and saw Darrius lying on the ground on his back. Castro asked Darrius what happened and Darrius told him “a male Asian” had shot him three times. Darrius repeatedly stated that he could not breathe and paramedics arrived shortly after. Paramedics placed Darrius on a gurney and transported him to the hospital for treatment.

Castro checked Darrius’ pockets for weapons and noticed Darrius had a gunshot wound to the right side of his body. Castro also checked the area for weapons. As Castro was checking bushes for weapons, his sergeant pointed to a black handgun that was lying on the sidewalk west of Darrius’ location. Castro also saw a blue beanie cap with a “OKC” NBA logo on the sidewalk, several feet west of Darrius.

Statement of Charvis R.

Charvis was interviewed by investigators and advised of his Miranda rights, which he waived.⁴ Charvis told investigators, he was on the Metro Gold line train and exited at the Arcadia stop. Charvis was with his cousin, Darrius, and close friend, Stephon. They began walking north on First Avenue. Charvis stated he was walking along the street and was on his cell phone when he looked up, and saw Yue holding a gun and yelling, “Officer!” or something to that effect. Charvis was standing closest to Yue at the time he saw Yue with a gun. Charvis ran away from Yue and was shot by Yue. Charvis stated Yue shot him while he was lying on the street. Yue

⁴ Charvis’ mother was also present during the interview.

held Charvis at gunpoint and told him to “calm down” and to call 9-1-1 on his cell phone. Yue told the 9-1-1 operator, “Hurry up and come! I’m an officer!”

Charvis stated he did not see Darrius with a gun or a pellet/replica gun prior to the incident. Charvis did not see Darrius hit Yue and stated he did not know why Yue fired his gun at him.

Charvis was petitioned in Juvenile Court with one count of Penal code section 213(B), robbery, which was sustained by the court in case number FJ54907.

Charvis sustained gunshot wounds to his left hand, left buttocks and left thigh.

Statement of Stephon G.

Stephon was interviewed by investigators and advised of his Miranda rights, which he stated he understood and waived. Stephon told investigators that he left the train station with his friends, Darrius and Charvis. As they walked, they each went their separate ways. Shortly after separating, Stephon heard gunshots, but thought nothing of it and continued walking to his friend’s house in Monrovia. Stephon arrived at his friend’s house and had not heard from Charvis or Darrius. Stephon received a phone call a short time later from his sister informing him that Darrius had been shot.

Stephon told investigators that neither he, Darrius nor Charvis were in possession of a pellet gun. Stephon then stated he did not know if “they” had a pellet gun and would not say who was holding the pellet gun. Stephon then stated he had his head down while he, Darrius and Charvis were walking on the sidewalk and was not paying attention to what Darrius and Charvis were doing. Stephon heard Yue screaming, “Hey! Hey!” and simultaneously heard gunshots. After hearing the gunshots, Stephon ran away.

Stephon stated that everything happened so fast. He saw Yue take his backpack off for no reason and did not hear anyone ask Yue for his belongings, and then saw Yue reach for his gun and shoot.

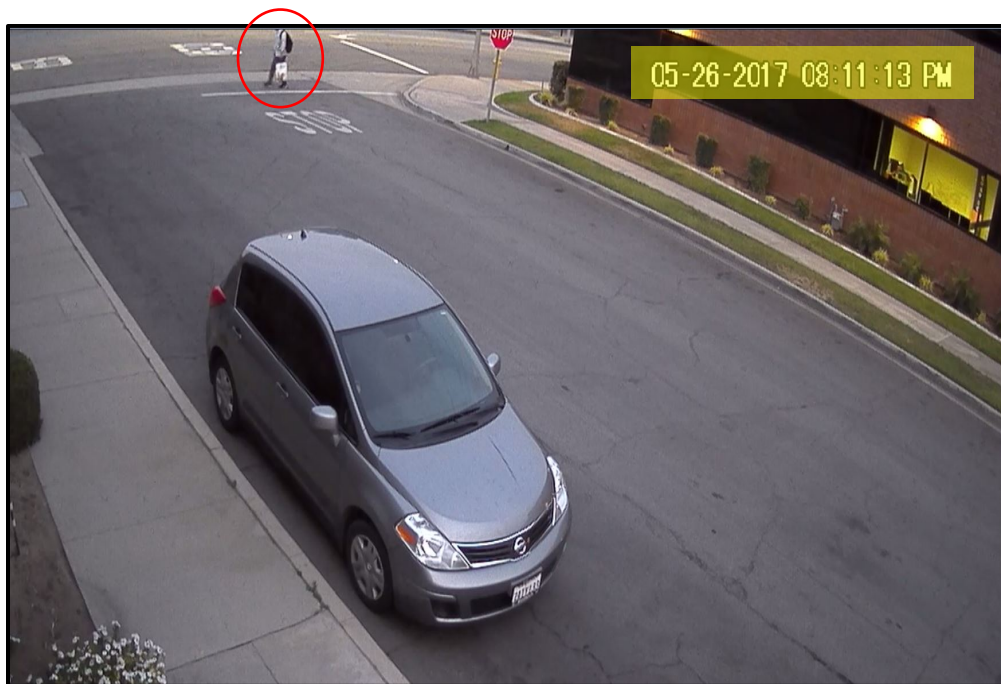
During the interview, Stephon would occasionally remain quiet with his head down and avoid making eye contact with investigators. Investigators provided a blank piece of paper for Stephon to write his statement on. Stephon wrote, “Can we talk outside?” and “I don’t want to tell on my cousins.” Stephon stated that his statement would be on “papers.” When asked who assaulted Yue, Stephon wrote down the letter, “D.” When asked if he was referring to Darrius, Stephon nodded his head yes and stated that he did not want to be labeled as a snitch. Stephon stated Yue did not say or do anything to him and his friends.

Stephon then stated that he noticed Yue carrying a backpack while they were on the train. Stephon said “they” decided to rob Yue, but he did not do anything. Stephon said Darrius punched Yue once while Yue had his hands up. Yue pulled out a gun from the back of his pants with his right hand, said, “Ok” and began shooting. Stephon said Yue fired his gun five to six times. After the shots, Stephon saw Darrius fall on the sidewalk. Stephon then fled from the scene. Stephon maintained that he did not see who had a pellet gun.

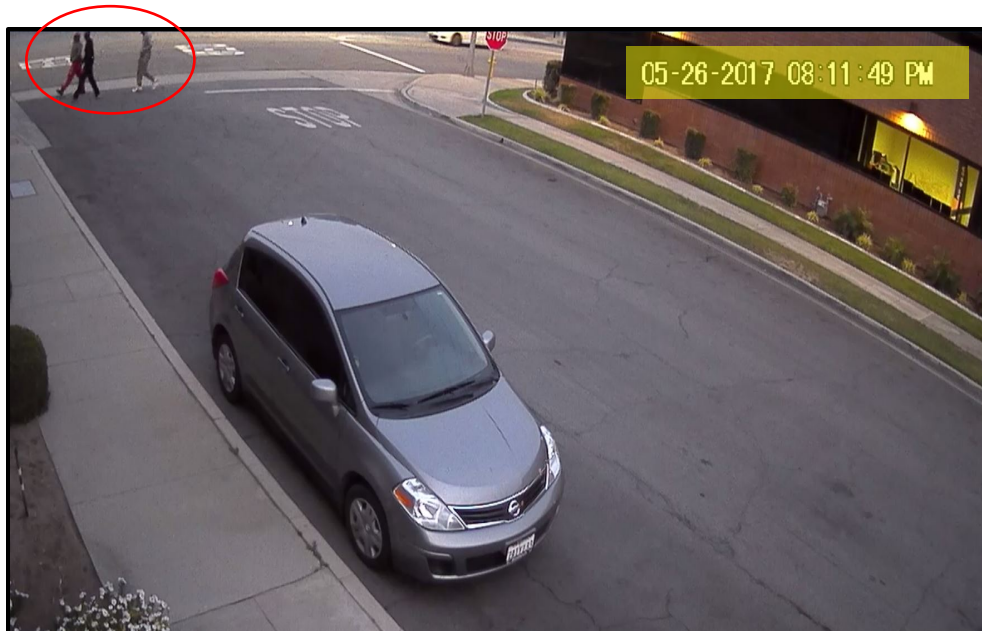
Stephon was petitioned in Juvenile Court with one count of Penal Code section 213(B), robbery, which was sustained by the court in case number FJ54891.

Surveillance

Investigators retrieved surveillance video from various cameras in the area where the incident occurred. Three separate cameras located at 303 North First Avenue captured various angles of Yue walking northbound on the west sidewalk of First Avenue and crossing the intersection at St. Joseph Street. Yue continues northbound on First Avenue toward La Porte Street. Approximately 30 seconds later, three individuals are captured following Yue. An individual dressed in black pants, a black sweatshirt and wearing a black and blue beanie, later identified as Darrius; an individual wearing red pants and a grey hooded sweatshirt, later identified as Stephon, and an individual wearing light camouflage pants and a grey hooded sweatshirt, later identified as Charvis.



Still photo taken from surveillance video depicting Yue walking across the street.



Still photo taken from surveillance video depicting Darrius, Stephon, and Charvis walking in the same direction as Yue.



Still photo taken from surveillance video depicting Yue walking northbound on First Avenue.



Still photo taken from surveillance video depicting Darrius, Stephon, and Charvis, walking northbound on First Avenue.

Video surveillance was also retrieved from a business located at 401 North First Avenue capturing two different angles; one from a window inside the business and one outside the business. Both angles show Yue walking past the business holding a shopping bag in his left hand and a black backpack on his back. Seconds after, both angles also show three individuals, Darrius, Stephon and Charvis, running behind Yue.

Evidence/Firearms/Weapons

Yue was armed with a blue steel H&K P-2000 .40 caliber semiautomatic pistol. Six cartridge cases were collected from the scene and determined to have been fired from Yue's pistol.

Darrius was armed with a black Umarex 9XP pellet gun. Multiple blood samples were retrieved from Darrius' pellet gun. A sample from the left side of the slide, and a sample from the top of the slide, included Darrius as a possible contributor. A sample from the right side of the grip matched Darrius' profile with a random match probability estimate in one out of 55×10^{33} .



Darrius' Umarex pellet gun recovered at the scene.



Beanie recovered from the sidewalk near Darrius.



Photo of Darrius' pellet gun and beanie recovered from the sidewalk.

Decedent Darrius S.

Darrius was 15 years old at the time of the incident.

Autopsy

On May 31, 2017, Deputy Medical Examiner Vadims Poukens, M.D., performed an autopsy on Darrius. Dr. Poukens concluded Darrius's death was caused by multiple gunshot wounds. Gunshot wound #1 to the chest, with a front to back, right to left, downward direction, deemed to be fatal; gunshot wound #2 to the right back, with a back to front, upward and slightly right to left direction; gunshot wound #3 to the right leg/buttock, with a back to front and downward direction, and gunshot wound #4 to the right leg/buttock, with a back to front, and downward direction.

A toxicology analysis revealed Darrius had marijuana in his system at the time of his death.

LEGAL ANALYSIS

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a "lawful excuse." Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *see also* 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. 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. 505, 3470.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

The evidence presented in this investigation shows that Yue was off-duty and walking home from the Arcadia train station stop when he was approached by Darrius, Stephon and Charvis. Yue was struck on the right side of the face three times, causing him to stumble. Immediately after being struck, three individuals surrounded Yue. Charvis was approximately one foot to the right of Yue and Stephon was slightly to the rear of him. Darrius, armed with what Yue reasonably believed to be a handgun, was standing directly in front of Yue, causing Yue to feel trapped. Darrius pointed the weapon at Yue and said, "I got you! I got you!" Fearing for his life, Yue raised his hands into the air and Darrius demanded Yue's iPhone, wallet, and backpack. Yue removed his backpack and threw it to create space between himself and Darrius. Darrius moved towards the backpack, reached down for it, and broke eye contact with Yue while Charvis and Stephon began moving in closer to Yue. Yue feared that Charvis and Stephon were going to discover that he was armed and a law enforcement officer. In reasonable fear for his life, Yue drew his gun and fired at Darrius who was still holding the weapon in his hand. Charvis

immediately lunged toward Yue with both hands as if he was going to grab Yue's gun. In fear, Yue turned toward Charvis and fired at him. Yue turned back to where Darrius and Stephon were located and saw Darrius and Stephon running away. While Darrius was running, he raised the weapon behind him, and, in fear, Yue fired at Darrius again. Although it was later determined that Darrius' weapon was a pellet gun, this fact does not change the reasonableness of Yue's fear.

All the evidence in this case is corroborated by the various surveillance videos retrieved by investigators that show Yue walking alone, then Darrius, Stephon and Charvis following and running behind him. In addition, Stephon's statement to investigators corroborates Yue's statement as to the events leading up to the shooting, and the shooting itself. Lastly, the DNA evidence analyzed from the slide and grip of the pellet gun recovered at the scene contained Darrius' DNA, which further corroborates that Darrius was in possession of the pellet gun.

Therefore, based on the evidence presented, we determine that Darrius, Stephon and Charvis placed Yue in reasonable fear for his life when they attempted to rob him at gunpoint, forcing Yue to end the threat by firing his service weapon at Darrius and Charvis.

CONCLUSION

For the foregoing reasons, we conclude that United States Customs and Border Protection Officer Quingyang Yue, acted in lawful self-defense when he used deadly force against Darrius S. and Charvis R. We are therefore closing our file and will take no further action in this matter.