

Officer Involved Shooting of Seth Raines
Los Angeles Police Department

**Sergeant Mike Guttilla, #32456, Officer Eugene Damiano, #27194,
Officer Matthew Clark, #41636**

J.S.I.D. File #15-0369



JACKIE LACEY

District Attorney

Justice System Integrity Division

June 6, 2017

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
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 Seth Raines
J.S.I.D. File #15-0369
L.A.P.D. File #F062-15

DATE: June 6, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 24, 2015, fatal shooting of Seth Raines by Los Angeles Police Department (LAPD) Sergeant Mike Guttilla, Officer Matthew Clark and Officer Eugene Damiano. It is our conclusion that Officers Clark, Damiano and Sergeant Guttilla acted in lawful self-defense and in lawful defense of another.

The District Attorney's Command Center was notified of the shooting on July 24, 2015, at approximately 4:43 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 Detective Jeffrey Wenninger of the LAPD Force Investigation Division. The compelled statements of Sergeant Guttilla, Officer Clark and Officer Damiano were considered in this analysis.

FACTUAL ANALYSIS

On Friday, July 24, 2015, at approximately 3:17 p.m., T■■■■ B■■■■ was in her vehicle waiting to make a left hand turn into the driveway of a parking lot situated behind Union Bank located at 12185 Ventura Boulevard.¹ As B■■■■ waited for oncoming traffic to clear, she noticed a man, later identified as Seth Raines, seated on the edge of a brick planter located directly outside Union Bank. B■■■■ watched Raines as he held a gun above his head and fired into the air.²

¹ This stretch of Ventura Boulevard is a high density business district which spans several blocks and is home to dozens of businesses on the north and south sides of the street which draw heavy vehicle and pedestrian traffic. The statements of police officers and civilians reviewed in the present case indicate that many pedestrians were present in the area on July 24, 2015, at the time of the incident involving Seth Raines and that vehicle traffic in the area was heavy.

² Investigators determined that the gun used by Raines was not a firearm but instead an Ekol Model P29 blank firing replica pistol. At a distance, the P29 is virtually indistinguishable from a true firearm. Like a genuine firearm, the P29 uses a detachable magazine and features a cycling slide which ejects casings and reloads live cartridges as the

After firing, Raines lowered the gun and placed the gun into a bag between his legs. Moments later, Raines removed the handgun from the bag. Once more, Raines raised the handgun into the air and fired. B█████ turned left into the parking lot driveway, drove past Raines, and then stopped to call 9-1-1 to report what she had observed.³ She then drove away from the area.

J█████ G█████ walked by Raines with her daughter as he continued to sit on the planter's edge. As she passed him, Raines pointed the gun directly at her face and then raised the gun into the air where he fired one shot. G█████ ran from the area with her daughter to the parking lot of a local Vons Market where her daughter directed a security guard to call 9-1-1.⁴

At approximately 3:19 p.m., the LAPD Central Dispatch Unit broadcast a "shots fired" call and LAPD Officers Billy Joe and Jerry Padilla, assigned to the North Hollywood Patrol division, were assigned to respond to the call. Sergeant Michael Guttilla, who was in the area, responded first to the location where he positioned his patrol car on Ventura Boulevard at an angle facing northeast approximately 90 feet from Raines. Guttilla saw approximately 10 to 15 people were in close proximity to Raines and Raines was holding a handgun between his legs. Guttilla exited his patrol car, aimed his service pistol at Raines and repeatedly ordered him to drop his weapon in addition to ordering civilians on the north sidewalk to get out of the area. Raines did not comply with Guttilla's commands.

Within a short time span, several other officers arrived at the location. LAPD Sergeant Daniel Widman positioned his patrol car close to Guttilla's and aimed his service weapon at Raines as Guttilla continued to order Raines to drop his weapon.⁵ After stopping traffic traveling westbound on Ventura Boulevard, Officers Cesar Gonzalez and Richard Adair took positions at the intersection of Ventura Boulevard and Vantage Avenue, southeast of Raines' position, near a Starbucks patronized by many customers. Both officers took positions behind their vehicle doors and pointed their weapons at Raines.⁶ Raines did not comply with repeated orders from the officers at the location to drop his weapon.⁷

At approximately 3:23 p.m., Guttilla broadcast a request for units to control additional traffic into the area; as Guttilla was making the request, Raines pointed his gun downward and fired once. After firing the weapon, Raines placed it between his legs. ██████████
██████████.

trigger is pulled and the gun is fired. In addition, the P29's blank cartridges cause a loud, concussive blast similar to the cartridges fired in a genuine firearm. The witnesses interviewed in this case gave varied answers regarding the number of shots fired by Raines. Some witnesses reported that Raines fired more than three times but only three spent blank casings were subsequently recovered from the scene near Raines' body.

³ Eight persons in the area called 9-1-1 to report Raines' behavior.

⁴ From the evidence reviewed, it is unclear whether G█████ walked by Raines before or after B█████ observed him fire a shot into the air. G█████ also saw that Raines had several canisters with protruding wires lashed together.

⁵ As one of the first responding units, Widman designated himself as the incident commander.

⁶ Adair was armed with a shotgun while Gonzalez was armed with a handgun.

⁷ Numerous witnesses interviewed by LAPD FID investigators stated they heard officers at the location repeatedly order Raines to drop his weapon before he was shot. Witness L█████ Q█████ specifically heard Raines mocking the officers by repeating their commands that he drop his gun.

planter outside Union Bank. The gun he had fired rested on the sidewalk near the planter. Christensen also observed a black briefcase on the ground near to the planter. On the planter's rim in close proximity to Raine's body, Christensen saw a plastic bag containing a box of ammunition (later determined to be blanks) and a simulated bomb consisting of butane cans, wires, a thermos and other items rigged to look like an improvised explosive device.



Replica Firearm Used by Raines

Utilizing the robot, Christensen rendered the simulated bomb explosive and the briefcase safe. As a precaution, a K-9 unit was used to search Raines' body and the immediate area around him for any other potential explosive devices. After determining that no other potential explosive devices were present, several LAPD officers approached Raines to arrest him and render medical aid with the assistance of paramedics from the Los Angeles Fire Department. After examining Raines, Paramedic Dominic Marquis pronounced Raines dead at approximately 5:42 p.m.

On July 28, 2015, Dr. Louis Pena conducted an autopsy of Raines' body and determined that Raines died from a fatal gunshot wound to the chest and a fatal wound to the head caused by shotgun projectiles.

After the officer involved shooting, LAPD investigators located several witnesses who had observed Raines as he sat in front of the Union Bank holding the gun. S██████ L██████, A██████ S██████, T██████ Se██████, J██████ M██████ and P██████ H██████ observed Raines raise his handgun towards the officers in front of him (and in the case of H██████, also towards LAPD officers stationed across the street next to Starbucks) before he was shot. H██████ also heard police officers ordering Raines to put down his weapon.

CONCLUSION

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.4th 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.

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; *See also People v. Minifie* (1996) 13 Cal.4th 1055, 106; *People v. Clark* (1982) 130 Cal.App.3d 371, 377; *People v. Collins* (1961) 189 Cal.App.2d 575, 588.

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. 4th 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.”)

The evidence presented in this case demonstrates that Sergeant Guttilla and Officers Clark and Damiano reasonably believed Raines was armed with a handgun and posed a significant threat of death or serious physical injury to the numerous people in the area. Though Raines was not armed with an actual firearm, the blank gun he pointed at the officers was a highly realistic and operable replica of a semi-automatic handgun which had no distinguishing features to immediately identify it as a replica firearm. Several witnesses, such as T [REDACTED] B [REDACTED] and J [REDACTED] G [REDACTED], who observed Raines at a close distance, believed that the handgun he fired was real and called 9-1-1.

Raines fired the replica firearm several times and ignored the officers’ commands to drop the gun. [REDACTED]. Given these highly tense and dynamic circumstances, Guttilla, Clark and Damiano reasonably feared if they did not fire at Raines when he suddenly raised his weapon, their fellow officers and civilians in the area were in grave danger of being shot.

Given the totality of the evidence presented, we find that Officers Clark and Damiano and Sergeant Guttilla acted in lawful self-defense and in lawful defense of another when each used deadly force against Seth Raines. We are therefore closing our file and will take no further action in this matter.