

**Officer Involved Shooting of Robert Reinoehl
Alhambra Police Department**

Officer Jason Ni, #284

J.S.I.D. File #17-0537



JACKIE LACEY

District Attorney

Justice System Integrity Division

July 11, 2018

MEMORANDUM

TO: CHIEF TIMOTHY VU
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Robert Reinoehl
J.S.I.D. File #17-0537
A.P.D. File #CR-17-7206
L.A.S.D. File #017-00120-3199-055

DATE: July 11, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 18, 2017, non-fatal shooting of Robert Reinoehl by Alhambra Police Department (APD) Officer Jason Ni. We have concluded that Officer Ni acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 1:29 a.m., on November 18, 2017. 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, audio recordings of interviews, firearm analysis reports, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted to this office by LASD Detective John Carlin. The voluntary statement of Officer Ni was considered as part of this analysis.

FACTUAL ANALYSIS

On November 18, 2017, APD Officer Jason Ni was working patrol in a marked SUV, wearing a black and white APD uniform, in the City of Alhambra. At approximately 12:01 a.m., he was dispatched to respond to a carjacking that had just occurred at 15 Beacon Street. The call details included that the suspect was a male Hispanic wearing black clothing and was possibly armed with

a firearm. The stolen vehicle was a white Acura with the license plate number [REDACTED]. Ni was unable to locate the stolen vehicle at that time.

At approximately 12:23 a.m., another radio call went out indicating that a white sedan was ramming other vehicles in the parking lot of Noodle House, located at 700 W. Valley Boulevard. Ni, believing that the white sedan could be the same vehicle which had recently been carjacked, drove to the location. Ni pulled his vehicle half-way into the driveway of the parking lot and stopped. Ni observed a white vehicle pull into the north stalls of the lot. Ni noted that the license plate of the vehicle matched the vehicle that had been stolen. Ni advised APD over the radio that the stolen Acura was at his location. The Acura was parked facing northeast in the stall closest to 7th Street with the engine still running.

Ni exited his vehicle and drew his service weapon. Ni yelled out to the driver, later identified as Robert Reinoehl, to, "Stop! Show your hands! Turn off the ignition!" several times. Ni positioned himself by his patrol vehicle's driver side headlight. Ni saw the Acura's rear tail-lights come on, and Reinoehl began driving the Acura in reverse.

At the same time, Sergeant Dany Fuentes arrived and parked his patrol vehicle adjacent to and slightly in front of Ni's vehicle. Reinoehl struck another vehicle as he quickly drove in reverse, causing the Acura to turn and face Ni and Fuentes. Fuentes exited his vehicle and ordered Reinoehl to turn off the ignition and put his hands up. Fuentes drew his duty weapon and continued ordering Reinoehl to put his hands up. Fuentes heard the Acura's transmission shift as if Reinoehl was shifting gears from reverse to drive. Fuentes moved to the rear of a vehicle parked in the south portion of the parking lot and yelled to Ni to get out of the way.

Reinoehl began driving forward towards Ni and Fuentes. Ni heard the engine rev and the vehicle began speeding toward them. Fuentes observed that the vehicle appeared to be travelling at full speed. Ni could hear the tires of the vehicle peeling out as the Acura sped toward him. Fearing for his safety and that of Fuentes, Ni fired his service weapon at the driver of the vehicle nine or ten times.¹ The Acura collided with a palm tree in the southeast portion of the parking lot.²

¹ A total of 10 casings were recovered from the scene. Ni had reloaded his weapon prior to the second round of shots. Based upon the number of bullets Ni had in his service weapon, and the empty magazine that had been in his weapon prior to reloading, it appears 11 rounds may have been fired.

² Officer Raymond Rosas responded to Ni's call that he had located the Acura and arrived just prior to Reinoehl reversing and colliding with another vehicle. He heard both officers commanding Reinoehl to put his hands up, witnessed Reinoehl colliding with another vehicle as he reversed, and observed the Acura change direction heading toward Ni and Fuentes, who were both on foot. Rosas saw the Acura "speed right toward Fuentes and Ni" prior to hearing gunshots.



Placement of vehicles after the Acura collided with a palm tree.



Aerial photograph of parking lot after the Acura collided with a palm tree.

Ni approached the right rear passenger window of the Acura and observed Reinoehl in the driver's seat leaning forward and appearing to reach toward the center of the front cabin area. Reinoehl's hands were not visible. Ni ordered Reinoehl to show his hands, but Reinoehl did not comply. Based on the earlier indication in the carjacking call that Reinoehl was possibly armed with a gun, Ni believed he was reaching for a weapon. Ni fired one additional round from his service weapon.

Ni then approached the right front passenger door of the Acura and observed Reinoehl exit the driver's side door. Reinoehl appeared to be limping. Ni ran to the front of the Acura for cover and then observed Reinoehl on the ground.³

Additional officers arrived as well as paramedics. Reinoehl was taken into custody and provided medical attention before being transported to Los Angeles County Medical Center where he was treated for a gunshot wound to his left ribcage area, as well as an exit wound to his back. A search of his property was conducted, and methamphetamine was found in the right coin pocket of the

³ Surveillance footage from the Noodle House parking lot was retrieved, but did not contain any footage of the shooting. Body worn videos and dash-cam videos of responding officers also did not capture the shooting itself, although Rosas' body worn video does contain audio of the incident which is consistent with the statements of Ni, Fuentes and Rosas. Civilian witnesses in the parking lot at the time of the incident did not observe the shooting, but heard gunshots. One such witness also heard officers issuing commands prior to shots being fired.

jeans he was wearing. A black pouch containing a glass pipe and a green leafy substance resembling marijuana was found outside of the stolen Acura.

On November 20, 2017, Reinoehl waived his Miranda rights and consented to an interview regarding the officer involved shooting. Reinoehl admitted to having driven a stolen vehicle, claiming he had been chased by gang members while riding a bicycle and tried to offer \$40 to the owner of the Acura before taking the keys. Reinoehl said it was possible the vehicle's owner may have seen the flashlight in his pocket and thought it was a gun.⁴

Reinoehl claimed additional gang members chased and shot at him when he was driving the Acura, then side-swiped the vehicle, forcing him to drive into the parking lot where the shooting occurred. Reinoehl claimed once inside the parking lot, some other cars began to crash into him.⁵ Reinoehl also claimed that the police rear-ended him. Reinoehl indicated he knew it was the police when he heard, "Stop! Police!" prior to being shot.⁶

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others 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.

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.2d 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.

⁴ A flashlight was recovered from the driver's side floorboard of the Acura.

⁵ Victim and witness statements regarding the alleged carjacking and ramming of other vehicles, as well as physical evidence found at the crime scene, resulted in charges being filed against Reinoehl in case GA102376. Reinoehl pled guilty on April 23, 2018, to both carjacking and assault with a deadly weapon against the vehicle owners in the Noodle House parking lot. Reinoehl was sentenced to 11 years state prison for the offenses.

⁶ Reinoehl later changed some details of what he claimed transpired, but ultimately told investigators the officers were not wrong in shooting him, because they were protecting civilian lives. Reinoehl also admitted to having taken two puffs of methamphetamine earlier that day and indicated he is addicted to methamphetamine.

A person is not guilty of a crime if he commits an act under an honest and reasonable belief in the existence of certain facts and circumstances which, if true, would make such an act lawful. *People v. Raszler* (1985) 169 Cal.App.3d 1160, citing *People v. Osbourne* (1979) 77 Cal.App.3d 479. CALCRIM No. 3406.

“An honest and reasonable belief in the existence of circumstances, which, if true, would make the act for which a person is charged an innocent act, has always been held to be a good defense.” *People v. Lucero* (1988) 203 Cal.App.3d 1101. When a person commits an act based on a reasonable mistake of fact, his guilt or innocence is determined as if the facts were as he perceives them. *Id.*, see also, *People v. Beardslee* (1991) 53 Cal.3d 68.

“Where an officer’s particular use of force is based on a mistake of fact, we ask whether a reasonable officer would have or should have accurately perceived that fact.” *Torres v. City of Madera* (2011) 649 F.3d 1119, citing *Jensen v. City of Oxnard* (1998) 145 F.3d 1078. Courts have warned against second-guessing the split-second judgment of a trained police officer merely because that judgment turns out to be mistaken. *McLenagen v. Kegan et. al.* (1994) 27 F.3d 1002, *Milstead v. Kibler* (2001) 243 F.3d 157.

The evidence examined in this investigation shows that Ni responded to the location to investigate Reinoehl ramming other vehicles, and assaulting some of the vehicle’s occupants, with a stolen vehicle. Ni had reason to believe that Reinoehl was armed with a firearm based upon the earlier carjacking call. Ni, and other officers, attempted to get Reinoehl to show his hands and to turn off the engine of the stolen vehicle. Rather than comply, Reinoehl put the vehicle into reverse, colliding with a parked car. Reinoehl then drove the vehicle directly at Ni, causing him to fear for his safety and that of Fuentes. Given that threat, Ni’s first volley of shots was reasonable. Even after having fired his service weapon at Reinoehl, Reinoehl continued to ignore commands and to move in a fashion consistent with attempting to secure a weapon. Ni was justified in firing an additional round under those circumstances.

CONCLUSION

We find that Officer Ni acted lawfully in self-defense and in defense of others when he used deadly force against Robert Reinoehl. We are closing our file and will take no further action in this matter.