

**Officer Involved Shooting of Alvin Pinwatana
Los Angeles Police Department**

Officer Ryan Hourigan, #37390

J.S.I.D. File #15-0027



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 4, 2016

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
 Los Angeles Police Department
 Force Investigation Division
 100 W. 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 Alvin Pinwatana
 J.S.I.D. File #15-0027
 L.A.P.D. File #F004-15

DATE: August 4, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 15, 2015, non-fatal shooting of Alvin Pinwatana by Los Angeles Police Department (LAPD) Officer Ryan Hourigan. We have determined Officer Hourigan acted lawfully in the defense of another.

The following analysis is based upon a series of reports and transcribed interviews prepared by LAPD Force Investigation Division (FID). JSID was notified of this shooting at 10:48 p.m. on January 15, 2015. The District Attorney Response Team responded to the location of the shooting where they received a briefing and "walk-through" of the scene. The compelled statements of Officers Sang An, Sam Oh, Bradley Schumacher, James Arredondo, Brandon Seibert, and Ryan Hourigan, as well as the compelled statements of Sergeants David Parker and Kenneth Pritchett were considered for purposes of this analysis.

FACTUAL ANALYSIS

At approximately 10:30 p.m., on January 15, 2015, Vera Pinwatana, Alvin Pinwatana's sister, called 9-1-1 reporting that Pinwatana was locked in the bathroom with a knife and threatening suicide. The Los Angeles Fire Department (LAFD) responded to 13267 Reedley Street, in the City of Los Angeles and contacted Vera. She repeated her concerns about Pinwatana and advised LAFD that Pinwatana had a history of mental illness. LAFD personnel entered the home and attempted to contact Pinwatana in the bathroom. Pinwatana was naked and appeared to have dried blood smeared on his body. Pinwatana asked LAFD personnel if they had a gun and could shoot him. Fearing that Pinwatana was armed, the fire personnel exited the residence and requested that the police respond.

At approximately 10:38 p.m., LAPD Officers Sang An and Sam Oh arrived at the residence. Shortly thereafter Sergeants David Parker and Kenneth Pritchett and Officers Bradley Schumacher and Ryan Hourigan also arrived at the location.

Sergeant Parker and Officers Oh, An, Schumacher and Hourigan entered the residence and positioned themselves inside the living room facing the closed bathroom door. An was armed with a bean-bag shotgun, Oh was armed with a Taser and also designated as the officer who would communicate with Pinwatana. Hourigan and Schumacher were armed with their service weapons. Oh identified himself as an LAPD officer and ordered Pinwatana to exit the bathroom with his hands up. After a few moments, Oh heard movement behind the bathroom door. Believing that Pinwatana might have harmed himself and was in need of medical assistance, Sergeant Parker determined that they would have to break open the bathroom door.

Hourigan was designated as the officer to force open the bathroom door. Hourigan kicked in the bathroom door [REDACTED]. Once the door was opened, Oh saw Pinwatana standing in the bathroom covered in blood holding a knife. Oh backed away from the bathroom and ordered Pinwatana to drop the knife. An and Parker also observed Pinwatana holding a knife. An told the other officers that Pinwatana was armed. Parker yelled "Taser" to direct that a Taser be deployed.

An saw Pinwatana drop the knife to the floor and stated "The knife is down." None of the other officers present heard An make this statement or saw Pinwatana drop the knife. As Pinwatana began to move out of the bathroom toward the officers, An also stated, "He's coming out." Officer Seibert, who had entered the residence shortly after the other officers, moved forward and saw Pinwatana covered with blood. He also observed blood spurting from Pinwatana's neck. In response to Parker's order, Seibert fired his Taser at Pinwatana.¹ Almost simultaneously, Hourigan fired one round from his service weapon at Pinwatana.

Hourigan submitted to a compelled interview on January 16, 2015. The interview was conducted by FID Detectives Ken Sanchez and Tyler Lee. Hourigan was represented by attorney David Winslow during the interview.

[REDACTED]

[REDACTED]

¹ Medical evaluation of Pinwatana did not disclose any wounds associated with Taser darts.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]²

LAFD personnel, who were still at the scene, then began treating Pinwatana. He was transported to Providence Holy Cross Medical Center where he was treated for a single gunshot wound to his left shoulder and a self-inflicted slash wound to the right side of his neck and a self-inflicted laceration to his left wrist.

[REDACTED] Pinwatana was admitted to the hospital, underwent surgery and remained hospitalized until January 26, 2015.³

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal. 4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use all 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 imminent injury. CALCRIM No. 3470.

² Pinwatana was subsequently charged in case PA082820 with assault on a police officer with a deadly weapon Penal Code section 245(c). On June 15, 2015 he pled no contest to resisting an executive officer in violation of Penal Code section 69.

³ FID personnel attempted to interview Pinwatana but he declined to make a statement.

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 ‘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.

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.

CONCLUSION

Officers Hourigan, along with other LAPD officers, responded to a call of a suicidal man with a knife cutting himself. LAFD personnel had attempted to contact Pinwatana before the police were called, but abandoned their attempt because of the danger posed by Pinwatana. Hourigan was assigned to break the door open and to employ lethal force if required to do so. Pinwatana refused to open the door and surrender, despite Oh’s repeated requests that he do so. Because the officers had a reasonable concern that Pinwatana was in the process of harming himself, Sergeant Parker decided to break open the bathroom door. When Hourigan kicked open the door

[REDACTED]

A few seconds later, Pinwatana rapidly exited the bathroom clenching his arms in fists in front of his body.

It appears that just prior to the shooting, Pinwatana dropped the knife. Except for An, however, none of the other officers saw this or heard An state “the knife is down.” As Pinwatana burst from the bathroom, it was reasonable for Hourigan to believe that Pinwatana posed an immediate and imminent danger to the other officers. Hourigan was required to make a split-second judgment in a tense and uncertain situation. [REDACTED]

[REDACTED] Hourigan fired one shot at Pinwatana.

For these reasons, we conclude that Officer Ryan Hourigan’s decision to shoot was reasonable under the circumstances and legally justified in the defense of others. We are closing our file and will take no further action in this matter.