

Officer Involved Shooting of Orbel Nazarians

Los Angeles Police Department

Officer Michael Martinez, #42805

J.S.I.D. File #18-0087



JACKIE LACEY

District Attorney

Justice System Integrity Division

September 14, 2018

MEMORANDUM

TO: COMMANDER ALAN HAMILTON
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 Orbel Nazarians
J.S.I.D. File #18-0087
F.I.D. File #F013-18

DATE: September 14, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 26, 2018, fatal shooting of Orbel Nazarians by Los Angeles Police Department (LAPD) Officer Michael Martinez. We have determined that Officer Martinez acted in the lawful defense of another when he used deadly force against Nazarians.

The District Attorney Command Center was notified of this shooting on February 26, 2018, at approximately 10:10 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant Damian Gutierrez.

The following analysis is based on reports and other materials including audio-recorded interviews of witnesses, Nazarians' 9-1-1 call, radio transmissions, photographs, an autopsy report, Body Worn Video (BWV) recordings, and dash camera (DICVS) videos submitted by the LAPD Force Investigation Division. Officer Martinez's compelled statement was not considered in this analysis.

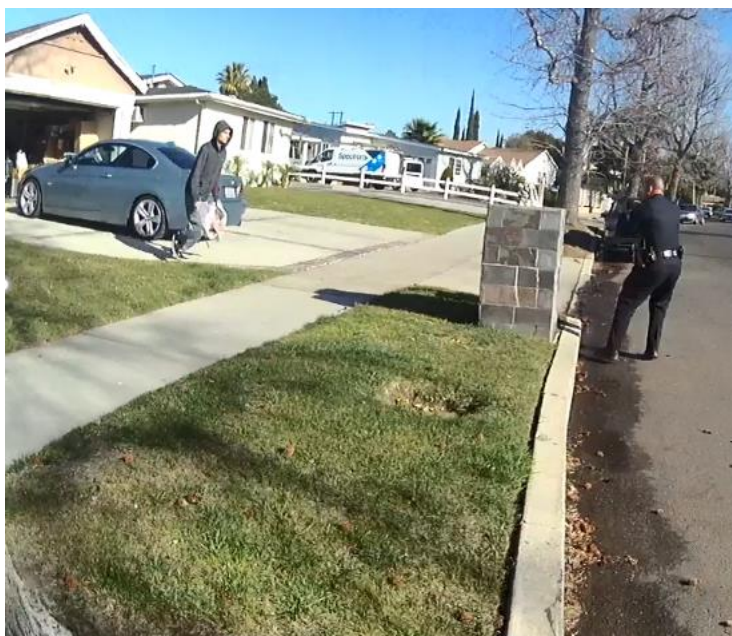
FACTUAL ANALYSIS

On February 26, 2018, at 8:43 a.m., Orbel Nazarians called 9-1-1 and told the operator he was armed with a handgun and knife and that he was going to "blow [his] brains out." Nazarians gave his home address on Kester Avenue in Panorama City, and told the operator that he needs "someone to come fast." Nazarians stated that he had the gun in his left hand and a "sword" in his right hand. Nazarians terminated the phone call when the operator inquired as to the reason he wanted to kill himself.¹

¹ Nazarians' mother told police that her son suffered from bipolar depression and that he had not been taking his medication or eating for the past few days. She stated that Nazarians had attempted suicide in the past.

The 9-1-1 operator generated a radio call of an attempt suicide and stated that the reporting party was armed with a handgun, a knife, and a sword. At approximately 8:50 a.m., six LAPD Mission Patrol Division uniformed officers arrived at the single-family residence on Kester Avenue, north of Nordhoff Street.

Officers Axcel Mannoury and Martinez approached the residence on foot and took cover near a large tree in front of the residence near the street. Mannoury continued walking in the street and took cover behind the residence's large concrete mailbox as the garage door began to open and Nazarians exited holding a pointed metal rod, approximately two feet in length, in his right hand. Nazarians held a towel in his left hand. Nazarians immediately walked toward Mannoury, who gave Nazarians three commands to, "Drop it!" Approximately seven seconds elapsed before Nazarians momentarily stopped in the driveway. Within two seconds, Nazarians suddenly ran toward Mannoury as he raised his right hand with the metal rod pointed toward Mannoury. Mannoury began back peddling into the street while pointing his service weapon at Nazarians and repeated his commands to, "Drop it!"



Still from Martinez's BWV as Nazarians began running toward Mannoury.

As Nazarians ran toward Mannoury, Officer Nicholas Virzi fired his Taser and Officer Jenyffer Del Rio Ortega fired two less lethal rounds from her beanbag shotgun at Nazarians. Neither the less lethal rounds nor the Taser probes struck or made contact with Nazarians. Within two seconds of Nazarians' charge toward Mannoury, Martinez fired one round from his 9mm service weapon from a distance of approximately 19 feet, striking Nazarians in the head. Nazarians fell to the ground in the street with the metal rod in his hand.



Still from Martinez's BWV immediately before he fired his service weapon.

The object Nazarians concealed in his left hand wrapped inside a towel was a can opener. The metal rod and can opener were photographed at the scene.



After the shooting, Mannoury broadcasted over the radio that shots were fired and requested a rescue ambulance for Nazarians. The fire department arrived and pronounced Nazarians dead at the scene.

Statement of Officer Mannoury

Investigators interviewed Mannoury after the officer involved shooting. Mannoury recounted that he and his partner, Martinez, received a radio call of an attempted suicide, and Martinez drove to the location of the call. Prior to arriving at the scene, he read the comments of the call to Martinez. He told Martinez that the caller stated he was armed with a handgun, a knife, and a sword. When they arrived at the scene, Mannoury took the role of the contact officer, and his partner took the role of the cover officer. As Mannoury approached the residence, he used a concrete mailbox near the street as cover when he saw the garage door open and Nazarians walk out. Mannoury addressed Nazarians by the first name as relayed in the comments of the call,

“Odell.”² Mannoury recollected that he told Nazarians to stop.³ Mannoury stated Nazarians was holding the “sword,” which was approximately three feet long, in his left hand in a lower than horizontal position.⁴ Mannoury did not remember seeing anything in Nazarians’ other hand. Nazarians made eye contact with Mannoury as he continued to walk toward him. Mannoury told him to stop, but Nazarians continued a few feet and then stopped for a “second.” Mannoury told him to drop the weapon when Nazarians suddenly ran in his direction. Mannoury backed away from the concrete mailbox as Nazarians closed the distance between them, and then Mannoury heard a gunshot and Nazarians fell on the ground. Nazarians appeared to be unconscious and breathing. Mannoury radioed for help, and requested a rescue ambulance for Nazarians.

Mannoury stated that he was in fear for his life when Nazarians began running toward him, but he did not remember the position of the “sword” because it happened so quickly. Mannoury intended to shoot Nazarians as he backed away from the concrete mailbox, but his partner shot first.

Autopsy

The following day, Dr. Joseph Vallone conducted an autopsy of Nazarians’ remains and determined that the cause of Nazarians’ death was a gunshot wound to the head.

LEGAL ANALYSIS

In protecting himself or another, a person may use that amount of 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. 505*.

In California, the evaluation of the reasonableness of a police officer’s use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer’s use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. Under this analysis, “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.

As soon as Mannoury and Martinez approached Nazarians’ residence, the garage door opened and Nazarians exited. He approached Mannoury with a long sharp metal object in his right hand. Nazarians also concealed an unknown object in a towel in his left hand. Based on Nazarians’

² When the 9-1-1 operator had asked Nazarians for his name, she heard, “Odell.”

³ In fact, Mannoury repeatedly told Nazarians to, “Drop it!”

⁴ The video evidence shows the metal rod in Nazarians’ right hand.

statements to the 9-1-1 operator, which were relayed to responding officers, it was reasonable for Martinez to believe the object concealed was a handgun. Nazarians' statements to the 9-1-1 operator and his actions toward Mannoury indicate that he committed "suicide by cop," such that he intentionally acted in a manner, which he knew would likely result in the police shooting him.

Nazarians' quick, deliberate, and aggressive actions left officers with seconds to evaluate the danger he posed. Nazarians' rapid advance prevented the officers from attempting to de-escalate the situation. The officers' attempts to use less lethal alternatives were futile as Nazarians charged Mannoury while raising the metal rod in his right hand above his head. Nazarians failed to comply with Mannoury's clear commands to, "Drop it!" Martinez shot Nazarians one time as Nazarians rapidly advanced. The totality of the circumstances, including Mannoury's stated fear for his life, indicate that Martinez reasonably believed that Mannoury was in imminent danger of being killed or suffering great bodily injury when he used deadly force.

CONCLUSION

We conclude that Officer Martinez's use of deadly force was legally justified in defense of Officer Mannoury. We are closing our file and will take no further action in this matter.