

Officer Involved Shooting of Christopher Deandre Mitchell

Torrance Police Department

**Officer Anthony Chavez #18509
Officer Matthew Concannon #18510**

J.S.I.D. File #18-0502



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 9, 2019

MEMORANDUM

TO: CHIEF EVE R. IRVINE
Torrance Police Department
3300 Civic Center Drive
Torrance, California 90503-5056

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Christopher Deandre Mitchell
J.S.I.D. File #18-0502
Torrance Police Department File #180058356

DATE: October 9, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 9, 2018, fatal shooting of Christopher Deandre Mitchell by Torrance Police Department (TPD) Officers Anthony Chavez and Matthew Concannon. We have concluded that both officers acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 10:57 p.m., on December 9, 2018. The District Attorney Response Team (DART) responded to the location, and was 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, transcripts of interviews, firearm analysis reports, the autopsy report, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted by Torrance Police Department Detective Nate Tshako. Compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On December 9, 2018 at approximately 7:40 p.m., TPD Communications Division received a 9-1-1 call from Dante [REDACTED] and Kerri [REDACTED] ([REDACTED]' spouse). [REDACTED] and [REDACTED] advised that they were following [REDACTED]' stolen vehicle, a black Honda Civic with license plate # [REDACTED]. Based on the location provided by [REDACTED] (Carson Street and Denker Avenue), the dispatcher advised [REDACTED] that they were in the jurisdiction of the Los Angeles Police Department (LAPD). The dispatcher transferred the call to LAPD, but the call went to an audio recording. The dispatcher tried a second time to transfer the call, but at some point the call was disconnected.

At approximately 7:53 p.m., ██████ flagged down TPD Officers Christopher Allen-Young and Officer Alex Gonzales on 220th Street west of Western Avenue in Torrance.¹ ██████ told the officers that his vehicle had been stolen and he saw it being driven in the area. ██████ provided a description of the vehicle as a black 2000 model Honda Civic, with a license plate containing the numbers “884,” and one nonfunctioning headlight. ██████ could not describe who was in the vehicle. He indicated that he last saw the car traveling westbound on 220th Street then northbound on Abalone Avenue. ██████ stated that the time delay between seeing his Honda and flagging down the officers was less than a minute. Gonzales broadcasted the information provided by ██████ to TPD Communications at 7:54 p.m.

At approximately 7:54 p.m., the stolen Honda entered the Ralph’s parking lot at 1770 West Carson Street in Torrance. The driver, later identified as Christopher Deandre Mitchell, drove east through the lot. As captured by store’s surveillance video, Mitchell then made a left turn and proceeded north in the lane furthest east in the front of the store. At approximately 7:55 p.m., Mitchell turned head-first into a parking stall and turned off the headlights. No one exited or entered the Honda in the interval preceding the arrival of police.

Concannon and Chavez were in the area and heard Gonzales’ radio broadcast about the stolen Honda. They drove north on Abalone Avenue approaching Carson Street in search of the Honda. Thinking that the driver might have ducked into a parking lot to avoid being observed, they made a right turn into the Ralph’s parking lot. Ralph’s surveillance video showed Concannon and Chavez’s unit enter the lot at 7:57 p.m. After the officers drove up and down the parking lot, Chavez caught sight of a parked Honda matching the description of the stolen vehicle and told Concannon what he had observed. As they passed the spot where the Honda was parked, Concannon made a U-turn, drove back to that spot, and parked directly behind the Honda, blocking it into the parking stall.

Chavez attempted to run the Honda’s license plate on his vehicle computer, but was unable to complete the search before the officers stopped. The officers exited their vehicle to conduct an assessment.² The Honda’s engine was not running and the vehicle lights were off. The officers could not initially tell whether the vehicle was occupied.

At approximately 7:58 p.m., Chavez approached the Honda on the passenger side and looked through the rear passenger window. Concannon approached on the driver’s side. As they approached the Honda, the officers realized that the two front windows were closed. The two rear windows were down slightly. All of the windows, except for the front windshield, were tinted.

Chavez could see Mitchell seated in the driver’s seat. Chavez yelled, “Police!” and told Mitchell to put his hands on the steering wheel. Initially, Mitchell sat motionless but then moved his hands to the steering wheel as directed. Chavez advised Concannon that the vehicle was

¹ The distance between Carson Street and Denker Avenue and 220th Street and Western Avenue is approximately .5 miles.

² The plate of the vehicle had not yet been provided by TPD Communications and/or Gonzales when the officers exited their vehicle.

occupied and that the driver had tattoos on his face.³ While Mitchell was looking towards Chavez, Concannon opened the driver's door utilizing the exterior handle. Concannon pushed the door to the furthest most open position which allowed for better illumination of the cabin.⁴ Concannon activated his body worn video while at the driver's door.⁵

Concannon began to speak with Mitchell, asking him, "What are you doing here, man?" Mitchell's hands came off the steering wheel and towards his lap. At this point, Concannon followed the movement of Mitchell's hands toward his lap and saw what Concannon believed was a firearm.⁶ Concannon drew his service weapon and said, "Don't move! Don't move!" In response, Mitchell raised his hands back up to shoulder level.⁷ Mitchell looked at Concannon, apologized twice,⁸ and again moved his hands down towards the weapon. Concannon put away his flashlight and switched to a two-handed firing posture. Concannon told Mitchell, "Get out of the car!"⁹

In the body worn footage, Concannon appeared to move slightly back along the side of the car as he put away his flashlight. Concannon's left hand can be seen coming up to brace his firing hand on the service weapon. After the shift to a two-handed firing position, the body worn camera's view of Mitchell was obstructed by Concannon's hands. As a result, Mitchell is not visible on the body worn footage during the three seconds preceding the first shot. Concannon can be heard on the video repeating the command, "Get out of the car!" more forcefully during this interval. About one second after repeating that command, the first shot was fired.¹⁰

Both officers afterwards described seeing a firearm between Mitchell's legs and his legs pinched together in what appeared to be an effort to conceal the weapon. Chavez indicated that he saw a gun when Mitchell's hands went up in response to Concannon. Per Chavez, Mitchell then leaned forward and moved his hands back down. Concannon stated that Mitchell actually touched the weapon. Concannon later indicated that he was most fearful that Mitchell would shoot Chavez, as it would have been easier for Mitchell to make that shot. Mitchell also had a black garment bag draped across his legs that may have concealed the weapon (or a portion of the weapon). Concannon thought that the garment bag was a floor mat; its position on Mitchell's lap caused Concannon to believe that the firearm had just been retrieved. In his interview, Concannon

³ In his voluntary statement, Chavez relayed that he was mindful that shootings involving area gangs had recently increased. Gangs claimed territory less than a block away. Mitchell's facial tattoos were documented during his autopsy. The tattoos include the word "Rebellious" written in cursive above his right eyebrow; three dots below his right eye (forming a triangle); the name "Sherylyn" in cursive along the right jawline; and the letters PLS arranged vertically on his left outer cheek.

⁴ Concannon's flashlight beam illuminated Mitchell's lap as shown in Figure 1.

⁵ Neither Chavez's body worn video camera nor the police vehicle camera were activated during the shooting. Chavez's camera was activated after the shooting occurred.

⁶ The weapon was later determined to be a break barrel air rifle.

⁷ All of this occurs within the first four seconds of the video.

⁸ Concannon interpreted Mitchell's apology as an apology for something he was about to do, e.g., to shoot the officer, because it seemed like Mitchell was stalling and did not modify his behavior.

⁹ Concannon explained that as Mitchell had failed to follow instructions Concannon gave a different order to see if he could get Mitchell to remove himself from the firearm.

¹⁰ The total time from the activation of the body worn video to the first shot being fired is approximately 12 seconds.

stated that Mitchell complied with neither the order “Don’t move!” nor the order “Get out of the car!”

In Figure #1 below, the weapon can be seen on Mitchell’s lap; the garment bag in this image is partially visible and appears to be lower down on the lap.

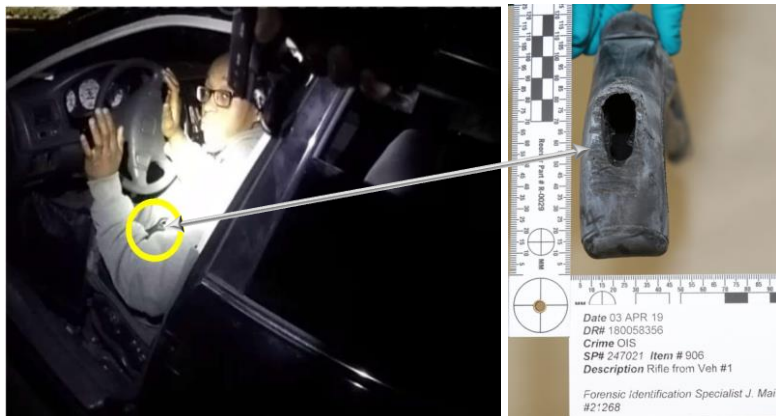


Figure #1 (left image) – Still photograph from Concannon’s body worn camera. The back portion of the weapon can be seen between his legs near the bottom of the steering wheel. Compare with Figure # 1A (right image): photo of the buttstock of recovered rifle.

In response to seeing Mitchell’s hands move toward his lap, Concannon fired one round from his service weapon. Chavez stated that he was in the process of drawing his weapon when he heard a shot fired. Chavez did not know initially who fired the first shot; he thought it might either be Mitchell or Concannon. An instant later, Chavez fired two rounds from his service weapon in rapid succession. Both officers returned to their police vehicle for cover and concealment while waiting for reinforcement. At approximately 7:58:21 p.m., Chavez broadcast that an officer involved shooting (OIS) had occurred.

Additional TPD officers arrived. Audio on Concannon’s body camera captured him saying, “It’s a long gun” to clarify a broadcast made by another officer about “a suspect armed with a handgun.”¹¹ Numerous commands were made for Mitchell to exit the Honda but without compliance. A drone was deployed in an effort to obtain visibility inside the vehicle; however, window tint obstructed this effort. Under command supervision, two 40mm kinetic energy projectile rounds were fired in an attempt to break the front passenger window to gain visibility, but these rounds had minimal effect. Officers Eric Bernier, Blake Williams, Joshua Satterfield and Mark Cuny then approached the passenger’s side of the Honda and forcibly removed the passenger side window utilizing a “haligan.”¹²

With the tinted window out of the way, officers gained clear visibility into the vehicle cabin. Mitchell was still in the driver’s seat and was observed to be unresponsive. Bernier, Alonso,

¹¹ Approximately one minute 25 seconds after the shooting, Concannon can be heard calling out to Mitchell, “Hey my man if you can hear me you need to get out and lay on the ground where we can see you. You got to do this so we can get you some help.” Concannon can be subsequently heard communicating to other officers who had arrived on scene, “His hands were on it, so watch yourself” and “He’s in the driver’s seat with a gun between his legs.”

¹² A haligan is a metal bar used to assist in making entry into various locations including vehicles.

Cuny, Williams, and Satterfield approached the Honda under cover of a ballistic shield on the driver's side. Mitchell remained unresponsive in the driver's seat of the car with the weapon still on his lap. Cuny removed the weapon from Mitchell's lap and passed it to Satterfield. The weapon was a black .177 caliber Crosman Phantom Break Barrel Air Rifle from which the buttstock had been removed but with the grip left in place. See Figure 2 below.



Figure # 2 - Photograph of Mitchell's altered Crosman Air Rifle

Mitchell was extracted from the vehicle. A TPD officer commenced CPR. Torrance Fire Department (TFD) personnel who had staged at the location moved in quickly to render aid once the scene was secured. Mitchell was pronounced deceased at the scene by TFD.

Following the December 10, 2018 investigation of the shooting, Senior Forensic Identification Specialist Carrie Harris transported all of the evidence to the Torrance Police Station where it was further processed and booked. The Crosman Air Rifle recovered from Mitchell's lap is manufactured with a shoulder-style butt stock. It appears that Mitchell's rifle had been modified by removing the butt stock and leaving the grip. In addition to the air rifle that was recovered from between Mitchell's legs, a clear plastic bag containing air rifle pellets was found resting in the driver's door handle. A key ring recovered from the car contained a shaved key that was inserted in the ignition.

Three expended .45 caliber shell casings were found near the Honda. These casings matched the caliber of department-issued weapons used by TPD officers. The first casing was found in the planter southeast of the vehicle. The second was found on the pavement near the front passenger-side tire of the Honda Civic. The third shell casing was found on the roof of the Honda Civic. All three casings were recovered in the immediate vicinity of where the shots were fired.

The rifle was swabbed for DNA, as was the plastic bag containing pellets that was found in the door handle. Lab analyses from these samples strongly indicate the presence of Mitchell's DNA. LASD Scientific Services Bureau's analysis determined that there were three contributors to the mixture of DNA found on the baggie. The criminalist's statistical projection from the analysis meaningfully supports the proposition that Mitchell was one of the three DNA contributors. Five contributors were found to be present on the rifle and LASD accordingly deemed the sample unsuitable for interpretation by its own laboratory. The sample was submitted to Cybergenetics (a private laboratory) for additional testing utilizing the TrueAllele Casework system. Based on work done by TrueAllele Analysts, a statistical projection was derived that meaningfully supports the proposition that Mitchell was one of the five contributors for the DNA found on the rifle.

An autopsy was conducted on December 14, 2018 by Associate Deputy Medical Examiner Zuhha Ashraf. Dr. Ashraf determined that the cause of death was gunshot wounds. The first wound observed was caused by a gunshot penetrating the right posterior shoulder back to front, right to left, and downward; exiting the right upper arm before re-entering the right upper torso; then exiting again on the right upper torso; and grazing the right mid-torso. The second observed wound was caused by a gunshot entering the left upper back traveling back to front, left to right, and downward and perforating the ribs, the left lung, the heart, stomach, and liver. While Dr. Ashraf's report did not identify this particular wound as fatal, his description of the various associated traumas along the wound path connotes lethality. The third observed wound was caused by a gunshot entering the posterior neck traveling back to front, left to right, and downward, exiting the right anterior neck one and one-half inches above the right clavicle. The fourth observed wound resulted from a gunshot penetrating the left hand traveling left to right; this shot fractured the thumb.

The evidence suggests that three rounds were fired, which caused four gunshot wounds. Three shell casings were found at the scene which is consistent with the round count from the officers' recovered service weapons, and the audible shots heard on Concannon's body camera. It seems probable that the wound to Mitchell's hand resulted from a bullet re-entry.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right actually and reasonably believed 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 evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations: "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.

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code § 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code § 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3^d 325, 333.

In protecting oneself or another, a person may use all the force which that person believes reasonably necessary and that 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.*

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code § 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. The officer may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507. As noted by one California appellate opinion, "[w]here 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 evidence examined in this investigation shows that Mitchell was driving a stolen car. He was about to be detained for investigation of a possible grand theft auto. As the responding officers approached, they observed what they reasonably perceived to be a firearm in Mitchell's lap. Mitchell made movements toward the weapon. This shooting was the type of situation described by the *Graham* court when it spoke about officers being forced to make "split-second judgments" under tense, uncertain, and rapidly evolving circumstances. Although the weapon was later determined to be an air rifle, the officers' belief that the weapon was a firearm was reasonable under the circumstances.

A number of observations contributed to the officers' reasonable fear of suffering death or great bodily injury. The tattoos on Mitchell's face made Chavez wary that Mitchell was a gang member. At least one of the officers (Chavez) indicated that he was mindful of recent gang shootings in the area. Mitchell was not following instructions. Despite commands not to move (given to Mitchell after Concannon observed the weapon), followed by repeated commands to get out of the car, Mitchell followed neither of these instructions and instead lowered his hands toward an object that the officers reasonably believed was a deadly weapon. Reasonably fearing for his and his partner's lives, Concannon fired an initial shot from his service weapon. An instant later, Chavez fired twice from the other side of the car.

Based on Mitchell's failure to follow the officers' directions, his continued efforts to conceal the object in his lap, the physical appearance of the object, and the movement of his hands toward the object, it was reasonable for the officers to believe that the object was a firearm and to respond with deadly force. Accordingly, both officers' use of deadly force was reasonable under the circumstances.

CONCLUSION

We find that Officers Anthony Chavez and Matthew Concannon acted lawfully in self-defense when they used deadly force against Christopher Deandre Mitchell. We are closing our file and will take no further action in this matter.