

Officer Involved Shooting of James White

Los Angeles Police Department

Officer Daniel Andersen, #32820

J.S.I.D. File #14-0308



JACKIE LACEY

District Attorney

Justice System Integrity Division

November 15, 2016

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 James White
J.S.I.D. File #14-0308
F.I.D. File #F024-14

DATE: November 15, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 12, 2014, fatal shooting of James White. We have concluded that Los Angeles Police Department (LAPD) Officer Daniel Andersen acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on May 12, 2014 at 2:20 a.m. The District Attorney Response Team responded to the scene and was given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports, recordings and videos submitted by LAPD Force Investigation Detectives John Roeda and Julie Fielder. The compelled statement of Officer Andersen was considered for this analysis.

Facts

Universal CityWalk

This incident and the events that preceded it occurred at the CityWalk portion of Universal Studios, a multi-acre entertainment complex including restaurants, retail stores and a theme park. The majority of Universal Studios is built on unincorporated county land and falls within the jurisdiction of the Los Angeles Sheriff's Department (LASD). CityWalk is a wide pedestrian walkway that runs from east to west and serves as a passageway from the western parking lots into Universal Studios. The westernmost portion of CityWalk, including the Saddle Ranch restaurant, falls within the City of Los Angeles.

The western section of CityWalk, in which the incident occurred, is lined on both sides with restaurants and retail stores, most of which were closed at the time of the incident. As CityWalk progresses toward the east, it widens into the Fountain Court, a circular area ringed with two levels of restaurants, nightclubs and retail outlets. An escalator in the southern section of the Fountain Court conveys patrons from the first to the second level. A fountain is located on the

ground level opposite the escalator. The front door of the Infusion Lounge night club is at the top of the escalator, although the club occupies both levels.

There are security cameras throughout CityWalk. The cameras above the door of the Infusion Lounge and over pedestrian passageways and the parking areas are close enough to pedestrians to capture their general appearances and outfits but not the details of their faces. The cameras over CityWalk and the Fountain Court capture indistinct silhouettes of figures without adequate detail to confidently identify individuals. No footage was provided from inside the Infusion Lounge, nor was any provided showing the actual incident in a level of detail that invites analysis. LAPD provided 41 video clips taken by security cameras positioned throughout CityWalk. James White is identifiable because of his outfit, which consisted of a dark hat with an indian logo, worn backwards, a pale gray sweatshirt with a Michael Jordan design, dark pants and white sneakers. White's movements are captured at various locations in and around CityWalk before the incident. A video clip shows White arriving at a Universal Studios parking lot in a vehicle at 10:35 p.m. on May 11, 2014, and conferring with associates. At 11:12 p.m., White and his associates are shown entering the Infusion Lounge.

Events Preceding the Incident

In the hours before the incident, the Infusion Lounge hosted a party featuring entertainer YG. A large crowd of rival gang members attended the performance. A fight broke out inside the club, involving many or all of the patrons during which at least one person brandished a firearm. Throughout the fight and afterwards, patrons fled the club and many of them rode the escalator down to the Fountain Court.

At approximately 1:00 a.m., deputy sheriffs assigned to the Universal CityWalk substation responded to the area of the Infusion Lounge and positioned themselves at the base of the escalator. Fleeing patrons riding down the escalators told deputies that someone inside the club had a firearm. Additional deputies responded to the club. A group of approximately five deputies entered the club and found almost everyone inside fighting. Deputies deployed Oleo Capsicum (pepper spray) to drive the combatants out of the club. Additional patrons exited and many of them gathered at the Fountain Court. During that time period, a video clip taken at 1:12 a.m. shows White back in the parking lot taking an item from an associate. The associate who provided the item had just spent 15 seconds inside the car that he (the associate) had previously parked. At 1:15 a.m., a video clip from a passageway near the Infusion Lounge shows White running with a handgun in his hand. At 1:17 a.m. White is seen at the front door of the Infusion Lounge with some associates.

White was among the substantial group from the Infusion Lounge who gathered on the Fountain Court before shots were fired in that area.¹ A fight broke out among the people who had relocated to the Fountain Court. Three or four gunshots were heard by both civilians and deputies. This caused the crowd to scatter and many walked or ran westbound on CityWalk. A

¹ LAPD provided a series of video clips of the Fountain Court taken prior to the dispersal of the crowd. No clip clearly shows the fight in the Fountain Court, nor does any clearly show anyone firing a weapon in the Fountain Court. However, clips show White among a series of men who wash their hands and faces with water from the fountain. (It is common for people who have been in the immediate area of gunfire to rinse their hands and other exposed areas of skin in an effort to rid themselves of gunshot residue.)

video clip taken at 1:22 a.m. shows White among the crowd in the Fountain Court who ran west in an apparent reaction to the gunfire.

Meanwhile, LAPD Officers Andersen and Deweber had heard a radio broadcast about a fight at CityWalk at 1:18 a.m. and responded to the location. Before arriving, they learned that LASD was handling the fight. Other LAPD units had cancelled their responses based upon the belief that the fight was occurring in the jurisdiction of LASD. Andersen and Deweber arrived at CityWalk and parked at the western extreme. They broadcast their arrival at CityWalk at 1:21 a.m. They walked eastbound on CityWalk toward the Fountain Court. Before they reached the Fountain Court, they saw and heard the crowd that was fighting at the base of the escalator. They heard the sound of gunshots coming from the area of the group. Andersen broadcast, "shots fired" at 1:22 a.m.

Andersen saw White running westbound with a companion. White turned back toward the crowd with a shiny revolver in his left hand and began to reposition himself by crouching then rising as though he intended to shoot at the crowd. Andersen believed that White had already fired his firearm. Andersen fired his weapon one time, fatally striking White in the chest. Andersen broadcast, "Officer involved shooting" at 1:23 a.m.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³ A camera mounted high above CityWalk, facing eastbound captured the time frame of the shooting. Small indistinct figures are shown walking calmly around the Fountain Court and on CityWalk. Suddenly, the figures disperse and run. It is not possible to identify White among the figures.

⁴ [REDACTED]

⁵ [REDACTED]

⁶ The projectile from Andersen's firearm entered White's chest just above his right nipple and penetrated from right to left and slightly downward. The trajectory is consistent with White's body being slightly bent forward and turned slightly to the right.

[REDACTED]

[REDACTED]

[REDACTED] a

[REDACTED] 7

[REDACTED]

[REDACTED]

Statement of LAPD Officer David Deweber

Officer Deweber’s vantage point and recollection of events prior to arriving at CityWalk were consistent with those of his partner. Once the officers passed the Saddle Ranch restaurant, Deweber heard a group of people yelling in the area of the Fountain Court. As they neared the group, three men walked toward him and Andersen and warned them that they should call for backup because, “It was about to go down,” or similar words. Just as the men passed Deweber, he heard the sound of approximately three gunshots coming from the east. Deweber sought cover southeast of Andersen. When Deweber heard the gunshots he unholstered his firearm, keeping it at a low ready position, pointed in the direction of the sound of gunfire, with his finger on the frame of the gun. Deweber unholstered his weapon after hearing gunshots because he believed someone in the area could be shot and killed or seriously injured by subsequent gunshots.

⁷ When deputy sheriffs responded to White’s location seconds later, his revolver was resting approximately seven feet west of White’s head. Most of the deputies did not see the gun and believed that White was the victim of a still active shooter. When the deputies asked about active suspects, Andersen directed them toward White’s fleeing companion, who was heading toward the Saddle Ranch restaurant with many others.

⁸ Deputy Sergio Venegas placed handcuffs on White.

Deweber focused on the area from which the sound of gunshots had emanated. Deweber saw White walking westbound, holding something small and shiny in his right hand, which he could not identify with certainty.⁹ Deweber was trying to discern what the object was when he heard the gunshot from his partner. White looked in the direction of the officers and appeared to be stunned.¹⁰ Both officers were yelling at him because they could not see his hands and did not know whether he still had the gun.¹¹ Deweber did not see any object fall from White's hands. Deweber did not recall any commands being given to White, nor did he hear White speak.

Deputy sheriffs came running from the east and handcuffed White. At the direction of Andersen, Deweber went to secure the firearm on the ground. The firearm was approximately five feet southwest of White. After White had been placed in handcuffs, the deputy sheriffs continued running westbound.

Statement of LASD Sergeant Joseph Morien

Sergeant Joseph Morien was the supervising deputy sheriff at Universal Studios on the night of the incident. At approximately 1:00 a.m., Morien got a call about a large fight at the Infusion Lounge. Morien responded and saw a fight involving a couple hundred people at the night club. Morien was among the deputies who cleared patrons from the club, which took 25 to 30 minutes. As the last patrons exited, Morien heard the sound of three to four shots coming from outside the night club. The gunshots were close together. Morien and other deputies rode down the escalator, and went westbound. Numerous people were running in the same direction, away from the Fountain Court. Morien and the other deputies pursued the group of people traveling westbound because they believed that the main suspect was among that group. Morien passed an LAPD officer who was with White's body. Morien saw a gun approximately two feet from White's body.

Statement of Deputy Sheriff Garrett Arakawa

Garrett Arakawa was among the deputies assigned to Universal CityWalk on the night of the incident. Arakawa and his partner, Sergio Venegas, were working bike patrol. When the fight broke out at the Infusion Lounge, Arakawa was at the base of the escalator. A patron fleeing down the escalator yelled that there was a gun in the club. Arakawa, Venegas and other deputies ran up the escalator and into the night club, where they encountered chaos. Arakawa and the other deputies dispersed the patrons. They were inside the night club for approximately five minutes.

When Arakawa exited the club, while he was still on the second floor landing, he heard a single gunshot followed approximately 30 seconds later by two more gunshots. Arakawa believed the sound of shooting came from the Fountain Court area. Arakawa, along with Deputies Venegas

⁹ In the video clips in which White is shown with what appears to be a firearm, the firearm is extremely shiny.

¹⁰ Deweber described the events in chronological order and indicated that White looked at the officers with a stunned expression after Andersen fired his weapon.

¹¹ At this point in Deweber's narrative, he refers to his being uncertain whether White still had the firearm in his hands. Deweber did not see White's firearm in adequate detail to identify it until after White had been handcuffed and the gun lay near him on the ground.

and Wax went down the escalator to the Fountain Court. Deputies began to order groups of people to lie on the ground.

Approximately five to ten seconds after the sound of the first gunshot, after he had reached the ground level, Arakawa looked west and saw White on the ground, unmoving, face down. Arakawa saw Andersen and Deweber emerge from the vegetation on the south side of CityWalk. Andersen and Deweber had their firearms drawn and held in the low ready position.

As Arakawa pursued the nightclub patrons surging westbound, he passed White, never getting any closer to him than 15 to 20 feet. Arakawa did not see White's firearm. Venegas stopped and handcuffed White.

Arakawa and Venegas joined other deputies and went to the Saddle Ranch restaurant, from which they cleared the remaining patrons.

Statement of Deputy Sheriff Sergio Venegas

After the fight began in the Infusion Lounge, Venegas was among the deputies positioned at the base of the escalator.¹² A group of three men told Arakawa that a man in the club had a firearm. The men kept running. Venegas was among the group of deputies that entered the club and broke up the fight. They were unable to find a firearm inside the club. After Venegas exited the club, he heard three gunshots from the area of the Fountain Court. People began to run westbound toward the Saddle Ranch. Witnesses in the Fountain Court area told him the shooter had gone westbound. Venegas looked west down CityWalk and saw White face down on the ground. He also saw Andersen and Deweber, each of whom had his gun drawn and pointed at White. Venegas approached them and followed Andersen's directive to handcuff White.

When the deputies asked Andersen and Deweber whether there was an active shooter, they formed the impression that the assailant who had shot White was heading west. Venegas, along with other deputies patted down and proned out the civilians they encountered as they proceeded westbound. Venegas did not see the firearm near White's body.

Civilian Witnesses

Numerous civilian witnesses were interviewed about the incident and the events that preceded it. However, very few of them witnessed the actual incident.

Statement of E ■■■ G ■■■

E ■■■ G ■■■ was a very close friend of James White and, like White, is a member of the Long Beach Insane Crips. G ■■■ was in the Infusion Lounge when arguing and a fight broke out. A man who had come with White, got "jumped" at the party and six guys kicked him on the floor of the club. Security guards sprayed the inside of the club with mace. G ■■■ exited the club, hoping to meet with the friends with whom he had come. As he rode down the escalator, the same people who had jumped White's friend shot about three times. G ■■■ ran, as did others.

¹² Venegas was wearing a bicycle uniform comprising shorts, a polo shirt and jacket.

G■■ did not see White again until White was in front of him, running. White got shot and fell to the ground. Prior to White being shot, G■■ never saw a gun in his hands.

G■■ saw a bald white officer with a handgun in his hand which he fired at White. (Both Officers Andersen and Deweber had shaved heads on the night of the incident.) G■■ heard the gunshot, fell near White at approximately the same time and lay on the ground near him. G■■ did not specify why he fell to the ground. The officer who did not shoot was to the right of the officer who shot.

When White hit the ground, the gun slid across the ground, away from White's left side. Goff conceded that it was possible the gun had come from White and that there was no other place from which the gun could have come.

Evidence

Ballistic Evidence

A .38 caliber chrome Smith and Wesson revolver was recovered approximately seven feet west of White's body on the pavement of Universal CityWalk. The cylinder of the revolver contained a single cartridge casing, which was tested and found to have been fired from that firearm. A partial DNA profile was obtained from a swab taken from the .38 revolver. That sample was compared to a reference sample of DNA extracted from James White and was found to contain the same DNA profile.¹³

No fingerprints of comparison value were found on the .38 caliber revolver.

LASD recovered a single .380 cartridge casing from the Fountain Court, which was retained by LASD and submitted to the National Integrated Ballistics Information Network (NIBIN) for comparison to other recovered cartridge casings. No matches were found.

At the time of the incident, Officer Andersen had a department authorized .45 caliber Smith and Wesson semi-automatic pistol. A round count indicated that it was fired one time during the incident. A single projectile recovered from White's chest was tested and found to have been fired from Andersen's pistol.

Coroner's Findings

On May 14, 2014, Los Angeles County Medical Examiner Dr. Ajay Panchal performed an autopsy on White and concluded that White's death was caused by a single gunshot wound to the chest, right to left, front to back and downward.

¹³ The DNA profile common to White's sample and the swab taken from the .38 occurs in 1 in 4 quadrillion unrelated individuals.

LEGAL ANALYSIS

When Officers Andersen and Deweber responded to Universal CityWalk, they only knew that there was a fight at the location. Other LAPD units had cancelled their responses and Andersen and Deweber were not in direct contact with the deputy sheriffs whom they knew to police the greater part of CityWalk. Effectively, Andersen and Deweber were alone. Beyond the Saddle Ranch restaurant, neither officer appeared to have great familiarity with the layout of CityWalk. The size and layout of CityWalk allow for a substantial number of potential assailants to be concealed.

As the officers came within view of the Fountain Court, they saw a large group arguing and fighting. When they heard the sound of gunshots emanating from the fight, they had no way to know how many potential shooters there may be, nor how many intended targets. When the officers took "cover" they had no genuine long term protection from assailants. They were merely hidden temporarily from view. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

At the moment he was fatally shot, White presented an apparent, present, and immediate threat that needed to be dealt with instantly.

"The killing of another person in self-defense is justifiable and not unlawful when the person who does the killing actually and reasonably believes:

1. That there is imminent danger that the other person will either kill him or cause him great bodily injury; and

2. That it is necessary under the circumstances for him to use in self-defense force or means that might cause the death of the other person for the purpose of avoiding death or great bodily injury to himself.

A bare fear of death or great bodily injury is not sufficient to justify a homicide. To justify taking the life of another in self-defense, the circumstances must be such as would excite the fears of a reasonable person placed in a similar position, and the party killing must act under the influence of those fears alone. The danger must be apparent, present, immediate and instantly dealt with, or must so appear at the time to the slayer as a reasonable person, and the killing must

be done under a well-founded belief that it is necessary to save one's self from death or great bodily harm.” CALJIC No. 5.12

California law extends this doctrine to justify the use of deadly force in defense of others. CALCRIM No. 505. 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.

At the time of the incident, it reasonably appeared to Officer Andersen that James White was poised to kill or seriously injure him, his partner and members of the crowd.

CONCLUSION

We conclude that Officer Andersen was justified in using deadly force against James White. We are closing our file and will take no further action in this matter.