

**Officer-Involved Shooting of Ryan Joseph
Los Angeles Police Department**

Officer Roberto Ruiz #38154

J.S.I.D. File #16-0633



JACKIE LACEY

District Attorney

Justice System Integrity Division

November 13, 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 Ryan Joseph
 J.S.I.D. File #16-0633
 F.I.D. File #F085-16

DATE: November 13, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 18, 2016, fatal shooting of Ryan Joseph by Los Angeles Police Department (LAPD) Officer Roberto Ruiz. We have concluded that Officer Ruiz acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 9:32 p.m., on December 18, 2016. 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 and transcripts of interviews, firearm analysis reports, the autopsy report, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted to this office by LAPD Force Investigation Division Detective Greg McKnight. Ruiz' compelled statement was considered as part of this analysis.

FACTUAL ANALYSIS

On Sunday, December 18, 2016, LAPD Officers Blake Mulcahy and Roberto Ruiz were in full uniform assigned to a crime suppression detail in the 77th Street Area. Mulcahy was the driver and Ruiz the passenger in an unmarked LAPD vehicle. As part of their duties, they were patrolling the area near the Armistad Plaza Apartment complex, located on the east side of South Western Avenue between 60th Place to the north and 62nd Place to the south. Both officers had knowledge that the location was a Six-Deuce Brims gang location. Ruiz had recently made an arrest in the parking lot of the location for gun possession.

As they were driving to the location, traveling east on 60th Place from South Western Avenue at a very slow rate of speed, Ruiz noticed a silver vehicle parked facing southbound in the entrance to the north/south alley behind the Armistad Plaza Apartment complex. The vehicle was blocking the south sidewalk behind the apartment complex. [REDACTED]

[REDACTED]

[REDACTED] Mulcahy continued driving slowly past Joseph's location as Joseph continued walking toward a pedestrian entrance gate to the Amistad Plaza Apartment complex. [REDACTED]

[REDACTED]

Ruiz began exiting the vehicle as it moved at a slow rate of speed. Ruiz again illuminated Joseph with his flashlight, saying, "Stop! Stop! Police!" Joseph did not respond to Ruiz' commands.

[REDACTED]

[REDACTED] Ruiz yelled out to Mulcahy, "He's got a gun!" as Ruiz entered the parking lot/courtyard area of the Amistad Plaza Apartment complex.¹

[REDACTED]

¹ Ruiz also broadcast that he was in foot pursuit of a man with a gun.

² Ruiz updated his broadcast to reflect Joseph's location, direction of travel and clothing description.

[REDACTED]

[REDACTED]

[REDACTED]

Off-duty LAPD Officer Luis Rosas was driving a red Ford Expedition with his girlfriend, Maria G., in the front passenger seat. As Rosas was traveling northbound on South Western Avenue towards 62nd Street, he observed Joseph running. Rosas continued watching Joseph and saw Ruiz chasing Joseph with a flashlight in his hand. At one point, both Rosas and Maria observed Joseph near the front passenger door of their vehicle. They both observed that he had a gun. Rosas continued watching the pursuit. Rosas observed Joseph looking over his shoulder, as if he were trying to determine Ruiz' location. Rosas observed Joseph look back at Ruiz approximately three times. Immediately prior to hearing gunshots, Rosas saw Joseph turning both his head and shoulders towards Ruiz, with the gun moving with Joseph's turn. Rosas described the movement as, "Almost as if he wanted to turn to possibly initiate with the officer or shoot at the officer." Rosas heard one round, then observed Ruiz with his firearm out. He saw Joseph take a step, then observed Ruiz firing two additional rounds before Joseph fell to the ground. Maria did not recall whether or not she observed any movement on Joseph's part prior to the shooting, but did observe Joseph holding the gun at the time of the shooting. Maria also observed Joseph being struck by bullets. She observed two red stains appear on his back before he fell to the ground.

Joseph sustained two gunshot wounds to his upper middle back. Paramedics responded to the location, rendered medical aid, and transported him to California Hospital Medical Center where he was pronounced dead.

Joseph's firearm, a 9mm Ruger pistol, was recovered approximately eight feet from where Joseph fell to the ground. The weapon was loaded with a large capacity magazine.⁵ The pistol had 13 live rounds in the magazine and one live round in the chamber.⁶ No fingerprints were recovered from

³ A short clip of surveillance video at 6109 South Western Avenue shows both of Joseph's arms moving freely as he runs away from Ruiz. Only a small portion of the foot pursuit is captured on the video. The subsequent shooting is not depicted.

⁴ [REDACTED] Rosas describe the lower portion of Joseph's body facing away from Ruiz, while the upper portion of his body was twisting to allow Joseph to see Ruiz. Joseph's back would still be primarily facing Ruiz at the time shots were fired.

⁵ The firearms analysis report indicates that the gun safety was on, but it is unclear whether it was in the on position when recovered, or whether it was placed in the on position prior to booking.

⁶ Investigation revealed that the firearm was taken during a car burglary in Upland, California, in October 2016. The weapon was not loaded and did not have an attached magazine when it was stolen.

the weapon, and DNA testing on the weapon itself was inconclusive due to it being a mixture of at least two males. Swabs taken from the magazine, however, contained DNA which is consistent with Joseph. The random match probability for the match is one in 200 sextillion un-related individuals. Particles consistent with gunshot residue were also detected on Joseph's hands and face. Additionally, Joseph posted a photograph to his Twitter account 12 minutes prior to the officer involved shooting, in which he is depicted wearing the same clothing (minus a jacket), holding the gun while standing with another man.



Firearm recovered from the ground near Joseph's body.



Facebook post depicting Joseph with the firearm minutes before he encountered Ruiz.

A total of three expended casings were recovered, matching Ruiz' service weapon. Only two rounds struck Joseph, and no impact for the third shot was located.

An autopsy was conducted on December 23, 2016. Deputy Medical Examiner Scott Luzi determined that the cause of death was multiple gunshot wounds. Medical records obtained from California Hospital Medical Center indicated that a bullet fragment had "fallen" out of one of the gunshot wounds. Dr. Palmisano was subsequently interviewed and indicated he saw a jagged piece of metal sticking out of the wound, and removed the item with his hand. Given that the bullet appeared to have exited the body, traveled through three articles of clothing, and then re-appeared in the gunshot wound, several experts were consulted to explain whether that was an indication Joseph was struck while on the ground.⁷ Based upon the physical evidence, it was determined that Joseph's three layers of clothing reduced the velocity of the bullet. The bullet likely attached to layers of the clothing, suspending the bullet as he fell to the ground. These expert opinions are also consistent with the eye witness statements as well as Ruiz' statement.⁸

⁷ A bullet traveling outside the body then re-appearing at the exit wound is referred to as "shoring" and is potentially evidence of a bullet striking a hard surface as it exits the body. Due to the fact that LAPD Criminalist Carol Acosta had noted that the bullet was consistent with potential shoring, FID detectives consulted first with Deputy Medical Examiner Luzi, who indicated it could have been the result of hitting a hard surface or tight clothing. FID detectives then consulted retired Los Angeles Police Administer Doreen Hudson, San Bernardino County Coroner, Chief Medical Examiner Francis Sheridan and Edward Hueske, Director at Forensic Trainig and Consulting, LLC to ascertain whether multiple layers of clothing was the more likely scenario. After obtaining information from each, FID detectives further consulted with LAPD Criminalist Julie Wilkinson who concurred with the other experts' opinions that Joseph was not likely on the ground at the time he was shot.

⁸ Rosas was asked specifically whether or not Ruiz ever fired his weapon once Joseph was on the ground, and indicated he did not. Maria observed the two red stains appear on his back before he fell to the ground.

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 of self-defense or the defense of others 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 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.*

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 section 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 section 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.

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 section 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. And he 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.

"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.2^d 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.

In the instant matter, Joseph was running away from officers with a gun in his hand. [REDACTED]
[REDACTED] Joseph continued to run and did not discard
the gun. [REDACTED]
[REDACTED]. Joseph did
not fall from the first shot, and since the threat had not been eliminated, Ruiz fired two additional
rounds. Ruiz’ observations are corroborated by Rosas, and to some extent by Maria. Given those
circumstances, Ruiz’ use of deadly force was reasonable.

CONCLUSION

We find that Officer Ruiz acted lawfully in self-defense when he used deadly force against Ryan Joseph. We are closing our file and will take no further action in this matter.