

Officer Involved Shooting of Tye Helmer

Glendora Police Department

Officer Steven Gonzales #0045

J.S.I.D. File #16-0543



JACKIE LACEY

District Attorney

Justice System Integrity Division

November 4, 2019

MEMORANDUM

TO: CHIEF LISA G. ROSALES
Glendora Police Department
150 S. Glendora Avenue
Glendora, California 91741

CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Tye Helmer
J.S.I.D. File #16-0543
G.P.D. File #16-10819
L.A.S.D. File #016-00121-3199-055

DATE: November 4, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 23, 2016, non-fatal shooting of Tye Helmer by Glendora Police Department (GPD) Officer Steven Gonzales. We have concluded Officer Gonzales acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 4:42 p.m., on October 23, 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 of interviews, firearm analysis reports, crime scene diagrams and sketches, photographs, and witness statements submitted to this office by Los Angeles County Sheriff's Department (LASD) Sergeant Robert Gray and Detective Adam Kirste. Officer Gonzales' voluntary statement was considered as part of this analysis.

FACTUAL ANALYSIS

On October 23, 2016, at approximately 9:47 a.m., GPD officers were dispatched to conduct a welfare check at a residence on Bagnall Street in the City of Glendora. Two callers had contacted 9-1-1. The first, Bridget C., reported that her ex-boyfriend was suicidal. Bridget indicated her

former boyfriend Tye Helmer had texted her suicidal statements, and indicated he had taken pills.¹ Bridget further advised that Helmer owned firearms. Bridget relayed Helmer's statement that if anyone other than Bridget entered the residence, Helmer would shoot himself. Bridget further indicated that a friend of Helmer's, Dennis C., was also at the residence. A few moments later Dennis C. contacted 9-1-1. Dennis, who is an off-duty police officer in another state, indicated he had just left the location. When Dennis left Helmer, Helmer had what appeared to be a .45 caliber handgun in his hand.

Upon arrival at the location, officers met with Dennis who advised them Helmer had consumed too much alcohol the night before, causing Dennis to give him a ride home. Dennis slept in the guest room. Dennis was awoken at approximately 9:31 a.m. by missed calls and texts from Bridget advising him that Helmer was suicidal. Upon entering Helmer's bedroom, Dennis observed Helmer seated on the bed with a black semiautomatic handgun in his right hand. The muzzle was pointed toward the ceiling. Dennis immediately gathered his belongings, left and texted Bridget to call 9-1-1. Officers determined through departmental resources that Helmer had three firearms registered to him, two rifles and a handgun. One of the weapons was an AR-15 rifle and one was a .45 caliber handgun.

Officers called Helmer on the telephone. Helmer sounded as if he was under the influence of alcohol and possibly narcotics, his voice extremely slurred. Officers advised Helmer they were at the location to help him and asked him to come outside his residence and speak to them. Helmer denied being suicidal and said he did not want to talk to officers. Helmer refused to exit the residence. After approximately four minutes on the phone, Helmer hung up. Repeated efforts to call him back were not answered.

Officers had Dennis call Helmer on speakerphone. Dennis attempted to console Helmer and convince him to exit the residence. Helmer would not answer Dennis, was crying and sounded distraught. Helmer then disconnected the phone call. Repeated efforts to call back were not answered.

At approximately 10:54 a.m., a gunshot was heard by GPD Sergeant Michael Henderson.² Henderson broadcast via police radio that a gunshot was heard from the inside of the residence. Less than one minute later, Bridget called officers and advised them she had spoken with Helmer earlier and he told her he did not take any pills but was unwilling to surrender. Helmer then disconnected the call.

Henderson began evacuating the neighborhood and set up a containment area. Officer Steven Gonzales and Henderson positioned themselves at a north retaining wall where they had a clear view of Helmer's second-floor balcony. Foothill Special Enforcement Team (FSET) officers arrived, positioned themselves on adjacent balconies and placed a tactical robot on Helmer's balcony to see inside the location and determine whether Helmer had been shot. Shortly thereafter, Helmer came outside on the balcony naked. Helmer threw the robot off the balcony and screamed

¹ A subsequent review of both Bridget and Helmer's phones confirmed that Helmer had sent texts which were suicidal in nature, as well as photos of pills, alcohol and firearms to Bridget.

² Officers had decided to pull back from the location so as not to further agitate Helmer. The gunshot was heard as they were in the process of doing so. Efforts to call Helmer after the shot was heard went straight to voicemail.

something undecipherable. Henderson saw Helmer look at him and Gonzales before walking back inside his residence. Other officers then heard what sounded like Helmer barricading the front door of his residence.

Helmer's family members arrived at the location and spoke to officers. Henderson asked them to call and text Helmer to determine whether he was injured and to get him to exit the residence. Henderson also made multiple announcements over a public address system asking Helmer to come out and speak with officers.

At 2:35 p.m., Henderson was advised by family members of Helmer that Helmer had stated in a phone call, "It all ends today. If I come out, I'm coming out with a gun and they can just fucking shoot me." Helmer disconnected the call immediately after making the statement.

Approximately one minute later, Helmer exited the residence and stepped out on to the second-floor balcony. Helmer was holding what appeared to be an AR-15 assault rifle in his right hand with the muzzle pointed toward the sky. Gonzales was still positioned at the northwest corner of the building and observed Helmer with the rifle. Henderson took a position behind Gonzales. Helmer appeared to do a "double-take" when looking in Gonzales' direction, then suddenly pointed the rifle at Gonzales.³ Gonzales, in fear for his own life and that of other officers and civilians in the immediate vicinity, fired two rounds from his service weapon.⁴ Helmer appeared to go down, the rifle left sitting on the balcony ledge.

Officers re-deployed the tactical robot and confirmed that Helmer was still moving around. Entry was made into the residence and Helmer was taken into custody. Helmer was transported to the hospital and treated for one gunshot wound to his left torso area.

Helmer's residence was searched. Inside the master bedroom, officers recovered a .45 caliber handgun on top of the bed. The weapon had one live round in the chamber and five live rounds in the magazine. A bullet hole was observed in the ceiling of the master bedroom, and an expended .45 caliber cartridge was recovered from under the nightstand in the master bedroom.

Bottles of prescription anti-depressant medication and pain medication in Helmer's name were also recovered from the location.

On the balcony, a Smith & Wesson AR-15 assault rifle was recovered from the balcony ledge. The weapon was unloaded, with an empty ten round magazine seated in the magazine well.⁵

³ Helmer's actions were observed by multiple law enforcement and civilian witnesses. Some civilian witnesses believed Helmer had fired the weapon at officers prior to Gonzales firing at Helmer. Additionally, at least one civilian witness indicated she was in fear of being shot due to her location behind Gonzales.

⁴ Gonzales was aware that Henderson and several residents who had refused to evacuate were located directly behind him on the front yard of their property. Additionally, Gonzales was aware that FSET personnel were located on a balcony directly across from Helmer's balcony, much closer to Helmer than he was.

⁵ Investigators also located multiple firearms, all unloaded, from locations inside the residence as well as ammunition for some of the weapons.



Handgun recovered on bed in master bedroom.



Bullet hole located in ceiling of master bedroom.



AR-15 recovered from balcony ledge.

Helmer was interviewed by investigators on November 4, 2016. Helmer recalled sending Bridget a picture of one of his guns after drinking alcohol to deal with “emotional pain.” Helmer recalled walking onto the balcony holding his AR-15 but could not recall why he had done so. He remembered being shot and was confused as to why. Helmer had no recollection of firing his handgun inside his residence.

On March 2, 2017, Helmer pled no contest to one count of exhibiting a firearm in the presence of an officer, in violation of Penal Code section 417(c) in case KA113990. Helmer was sentenced to five years formal probation.

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.

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.

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. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with

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, 589.

In this matter, Helmer pointed a rifle at Officer Gonzales, threatening both him and others in the immediate area. Given Helmer’s apparent intoxication, suicidal statements, discharging a firearm inside his residence and erratic behavior over the course of the hours Gonzales and other officers were present, it was reasonable for Gonzales to fear that Helmer intended to shoot him or others. As such, Gonzales’ use of deadly force was justified.

CONCLUSION

We find that Officer Gonzales acted lawfully in self-defense and in defense of others when he used deadly force against Tye Helmer. We are closing our file and will take no further action in this matter.