

**Officer Involved Shooting of Jason Giovacchini  
Torrance Police Department**

**Officer Jimmy Sola Jr., #12133,  
Officer Anthony Fontanez, #18848, Officer Jason Reed, #19999**

**J.S.I.D. File #15-0278**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**May 13, 2016**

## MEMORANDUM

TO: CHIEF MARK MADSUDA  
Torrance Police Department  
3300 Civic Center Drive  
Torrance, California 90505

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

RE: Officer Involved Shooting of Jason Giovacchini  
J.S.I.D. File #15-0278  
Torrance P.D. File #150030772

DATE: May 13, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 27, 2015, non-fatal shooting of Jason Giovacchini by Torrance Police Department (TPD) Officers Jimmy Sola Jr., Anthony Fontanez and Jason Reed. It is our conclusion that the officers acted lawfully at the time they fired their weapons.

The District Attorney's Command Center was notified of this shooting on May 27, 2015, at 1:30 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by the Torrance Police Department. No compelled statements, if any exist, were considered in this analysis.

### FACTUAL ANALYSIS

#### **Background on Jason Giovacchini**

Jason Giovacchini was wanted in connection with a shooting that occurred at the "Knolls Lodge" mobile home park in the City of Torrance on April 2, 2015. In that incident, Giovacchini was identified as the suspect who fired a weapon at two victims. A "Wanted Suspects" bulletin was distributed to law enforcement agencies for Giovacchini, along with another suspect, on the date of the shooting.

On May 19, 2015, the District Attorney's Office filed a ten count criminal complaint against Giovacchini, charging him with two counts of attempted murder, two counts of assault with a firearm, possession of a firearm by a felon and drug related offenses.<sup>1</sup> A warrant for

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<sup>1</sup> Case number YA092430.

Giovacchini's arrest was issued. [REDACTED]

## Summary of Facts

On the morning of May 27, 2015, the TPD Vice and Narcotics Team (VNT) established surveillance at Leo's Motel, located at 1879 Lomita Boulevard in the City of Lomita. Detectives observed Giovacchini and an unknown female, later identified as Britney Fleites, exit a motel room and enter a vehicle.<sup>3</sup> Fleites drove the vehicle away from the location with Giovacchini seated in the front passenger seat. VNT detectives requested assistance from TPD patrol officers in conducting a traffic stop of the vehicle.

At approximately 11:40 a.m., the vehicle was traveling eastbound on Lomita Boulevard, west of Vermont Avenue, when four TPD patrol units attempted a traffic stop of the vehicle. The officers activated their overhead lights and sirens and the vehicle made a southbound turn onto Vermont Avenue. The vehicle began to stop but immediately accelerated going southbound on Vermont Avenue at a high rate of speed. The vehicle slowed and pulled over towards the curb several times. Each time, the passenger door opened slightly then closed as the vehicle continued on its southbound path.

While in the area of 254<sup>th</sup> Street and Vermont Avenue in Harbor City, it appeared that the vehicle was going to turn into the "Harbor Village" residential complex, located at 25400 Vermont Avenue.<sup>4</sup> As the vehicle turned into the gated driveway to the complex, the primary patrol unit used an intervention maneuver and struck the rear passenger side fender of the Saab. This caused the vehicle to strike another occupied vehicle that was stopped at the exit to the residential complex and come to a stop.

Giovacchini exited the front passenger door of the vehicle and fled on foot, westbound along the southern portion of the exit to the complex. The officers exited their vehicles and a foot pursuit ensued. As he ran, Giovacchini had a handgun in his hand. He was also observed throwing unknown objects over a fence. During the pursuit, Officers Sola, Reed and Fontanez fired their service weapons, striking Giovacchini, causing him to fall to the ground.

Giovacchini was treated at the scene by the Los Angeles County Fire Department. He was transported to Harbor UCLA Medical Center where he was treated for multiple gunshot wounds to his back and one to his left arm. Giovacchini was discharged on June 4, 2015, and remained in custody on the attempted murder case.<sup>5</sup>

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<sup>2</sup> [REDACTED]

<sup>3</sup> The vehicle was a grey Saab, license plate number 7DLT279.

<sup>4</sup> Harbor Village is a multi-unit, gated, residential community. There is a guard shack located at the entrance to the location. It sits between the entrance into the complex and the exit to Vermont Avenue. The door to the guard shack is on the north side, with planters to the east and west of the structure. There are two entrance lanes into the complex and two exit lanes. There are two entrance security barrier arms east of the entrance gate with a planter area on the east side. The two entrance lanes are partially divided by a yellow chain.

<sup>5</sup> The matter is currently set for preliminary hearing in Department 8 of the Torrance Superior Court.

Following the shooting, the area was searched for the items thrown by Giovacchini. Crime scene investigators located several items of evidence inside the gated area of the complex. Among the items recovered were a black sunglasses case containing bindles of narcotics, which was located on the driveway of one of the residences within the complex, as well as a Springfield XD-9 9 mm handgun, which was located on the roof of that residence.<sup>6</sup> DNA testing was conducted on the handgun and the magazine. The DNA profile obtained from the samples matched Giovacchini's DNA profile.

## **Officer Statements**

### ***Jimmy Sola***

On May 27, 2015, at approximately 11:30 a.m., TPD Officer Jimmy Sola was working uniformed patrol in a marked black and white police vehicle. He was dispatched to assist detectives with a traffic stop in the area of Lomita Avenue and Western Avenue. Sola observed the vehicle and confirmed the license plate number with TPD communications. Sola was aware that the passenger in the vehicle was attempted murder suspect, Jason Giovacchini.<sup>7</sup> Sola drove behind the vehicle as the primary unit. He activated his lights and siren in an attempt to stop the vehicle. There were three additional police units following behind Sola.

The vehicle failed to stop and continued southbound on Vermont Avenue. Sola was approximately two car lengths behind the vehicle and observed Giovacchini reaching over to the backseat or backseat floorboard, retrieving items and moving them to the front seat. Due to the distance, Sola could not identify the items but believed Giovacchini was possibly arming himself with a weapon.

Sola believed Giovacchini was aware that he was wanted for the April 2015 shooting since his "associate" had been arrested in connection with the incident. As a result, Sola believed Giovacchini would possibly flee or engage the officers in a violent encounter.

The vehicle continued southbound on Vermont Avenue and drove towards the curb approximately three times. Each time, the passenger door opened slightly. Based on his experience, Sola believed Giovacchini was preparing to jump out of the vehicle.

As the vehicle approached the entrance to a large condominium complex, Sola used "legal intervention" and struck the vehicle's rear passenger side fender with his patrol unit's front driver's side push bumpers. Sola was aware that many families with children lived in that complex and due to its size, Sola believed Giovacchini could hide to avoid apprehension should he scale the fence into the complex. Sola hoped to "stun" Giovacchini into not fleeing and give the officers time to exit their vehicles. As a result of the maneuver, the suspect vehicle struck another vehicle that was stopped at the exit to the complex and came to a stop.

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<sup>6</sup> The narcotics located in the black pouch were submitted to the LASD crime lab for analysis and determined to be heroin, methamphetamine, Doxycycline and Ibuprofen.

<sup>7</sup> Sola was familiar with Giovacchini as he had arrested him in the past. Sola stated that Giovacchini started out as a "small time criminal" and then a gang member who committed auto and residential burglaries, as well as violent crimes. Giovacchini had been in and out of prison for 14 years. Sola was aware of the Knolls Lodge shooting and the warrant for Giovacchini's arrest.

Sola attempted to exit his patrol unit but his door was “pinned” due to the impact. Sola feared that Giovacchini could advance upon him with a weapon, flee the location or harm residents in the complex. He also feared that the female driver could be armed. Sola used his shoulder to push on the door and kicked the door open. He observed Giovacchini run westbound behind the guard shack, which was located in the middle of the driveway. Officer Fontanez, who was driving to Sola’s left when Sola struck the vehicle, ran westbound in front of Sola’s unit in Giovacchini’s direction.

Sola ran westbound on the north side of the guard shack as Officer Reed drove into the driveway. Sola lost sight of Giovacchini and Fontanez as they ran on the south side of the guard shack. Reed stopped his patrol unit west of the guard shack. Sola ran around Reed’s vehicle and saw Giovacchini throw something over the fence as he was running towards the fence. Sola was approximately 20 to 30 feet away from Giovacchini and fired two rounds at him causing him to fall to the ground. Reed and Fontanez also fired their weapons. Sola believed Fontanez was the first to shoot but the shots that followed were simultaneous.

Sola fired at Giovacchini because he believed Giovacchini was armed and felt that if they did not stop him, Giovacchini could get over the fence and possibly engage them in gunfire in an attempt to get away. Sola believed his life, the lives his fellow officers and other citizens in the area were in danger.

### ***Anthony Fontanez***

On May 27, 2015, at approximately 11:30 a.m., TPD Officer Anthony Fontanez was working uniformed patrol in a marked black and white police vehicle. He, along with Sergeant Stiller, Officer Reed and Officer Sola, was detailed to Leo’s Hotel in Lomita to assist with a traffic stop of Giovacchini who was wanted for “murder.”<sup>8</sup>

The patrol units got into position to conduct a traffic stop at Vermont Avenue and Lomita Avenue. Fontanez observed a female driver and Giovacchini in the front passenger seat of the vehicle. The vehicle failed to yield while traveling southbound on Vermont. Sola was the primary unit and Fontanez was the secondary unit. Reed was the third unit and Stiller drove behind Reed. Fontanez had his overhead lights and siren activated, as did Sola.

Fontanez observed Giovacchini moving inside the vehicle while the vehicle was in motion. Fontanez also observed Giovacchini attempt to open the passenger door several times. When the vehicle approached the entrance to 25600 Vermont Avenue, Sola did a legal intervention, striking the vehicle in the rear, sending it forward into another vehicle.

Fontanez parked his unit to the driver’s side of Sola’s unit. Giovacchini exited the vehicle and ran westbound into the exit driveway, south of the guard shack. Fontanez gave chase and ran along the south side of the guard shack in pursuit of Giovacchini.

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<sup>8</sup> Fontanez was familiar with Giovacchini as he contacted him seven to eight months prior during a traffic stop. Fontanez knew Giovacchini was on parole for assault with a deadly weapon. During the traffic stop, Fontanez had a conversation with Giovacchini related to his criminal history.

Fontanez was approximately 20-25 yards east of Giovacchini in the driveway when he observed Giovacchini throw a black item directly south between two buildings within the complex. Fontanez slowed to a stop and saw a handgun in Giovacchini's right hand. Giovacchini was standing in a bladed stance, facing directly south, away from Fontanez who was west of Giovacchini. Fontanez subsequently lost sight of the gun.

Giovacchini looked back at Fontanez, who was in the middle of the driveway with no cover. Fontanez believed Giovacchini was going to turn and shoot him. Fearing for his life, as well as the lives of the other officers and civilians within the complex, Fontanez fired six rounds at Giovacchini. The other officers also fired their weapons. Giovacchini fell to the ground with his head in a northerly direction.

### ***Jason Reed***

On May 27, 2015, at approximately 11:30 a.m., TPD Officer Jason Reed was working uniformed patrol in a marked black and white police vehicle. He was dispatched to assist in a traffic stop of attempted murder suspect, Giovacchini.<sup>9</sup> Reed had a heightened sense of security as he knew Giovacchini was considered armed and dangerous.

Reed was the third unit following behind Giovacchini during the attempted traffic stop. Reed had his lights and siren activated. The vehicle drove southbound on Vermont Avenue from Lomita Avenue and pulled to the right approximately three to four times as if it was going to yield but would drive back into the number two lane and continue southbound on Vermont. Reed saw the driver and Giovacchini looking back and moving inside the vehicle.

When the vehicle approached a residential complex, Sola used a legal intervention to hit the vehicle, which in turn hit another vehicle. Reed observed the suspect vehicle's passenger door open and Giovacchini exit. Giovacchini ran westbound through the exit to the complex. Reed saw Giovacchini "grabbing" at the front of his pants. Reed believed Giovacchini was attempting to retrieve a weapon.

Reed drove his vehicle to the right of Sola's vehicle and into the entrance of the complex past the guard shack. Reed lost sight of Giovacchini for one to two seconds as he drove past the north side of the guard shack where he came to a security barrier arm and stopped his vehicle. Reed did not see Sola or Fontanez exit their vehicles. Reed exited his vehicle and saw Giovacchini make a large underhand tossing motion, throwing a dark object into the air. The object appeared to go over the fence and into the complex.

Reed had drawn his service weapon and ordered Giovacchini to stop and put his hands in the air. Reed observed Giovacchini put his hand down towards his waistband. Reed believed Giovacchini was retrieving a weapon. Reed was in fear for his safety so he fired his weapon at Giovacchini one time from a distance of approximately 10-15 yards. Reed observed

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<sup>9</sup> Reed was familiar with Giovacchini and was aware that he was wanted for an attempted murder at Knoll's Lodge. Reed was also aware that the previous day (May 26, 2015), officers observed a stolen vehicle outside Giovacchini's home, leaving the location. A pursuit ensued and the TPD SWAT team was requested due to Giovacchini's history. The suspect arrested in that incident was not Giovacchini.

Giovacchini's hands go back up into the air and another dark object flying in the air over the fence. Reed believed the object was a gun.

Reed heard additional shots fired from the south side of the guard shack. He did not hear Sola or Fontanez give any commands. He heard Stiller approach on his left saying, "We're good. We're good." Reed observed a security guard filming on his cell phone. Reed handcuffed Giovacchini, who appeared to have been shot on his left elbow, and searched him for additional weapons. No additional weapons were located.

### ***Scott Stiller***

On May 27, 2015, at approximately 11:30 a.m., TPD Sergeant Scott Stiller was working uniformed patrol in a marked black and white police vehicle. He was dispatched to assist in a traffic stop of attempted murder suspect, Giovacchini. Stiller was the fourth unit during the pursuit of the suspect vehicle. When the vehicle came to a stop, Stiller saw Giovacchini in the front passenger seat. The passenger door opened and Giovacchini quickly exited and ran in a westbound direction towards the entrance of the complex.

Stiller entered the complex through the entrance lane just north of the guard shack. When Stiller exited his vehicle the guard shack was to the left. Reed was approximately 10 feet east of him and Sola was approximately 15 to 17 feet away in a northwesterly direction. Stiller did not recall hearing either of them giving commands to Giovacchini.<sup>10</sup>

As Stiller exited his vehicle, he could hear shots being fired. He quickly moved along the west side of the guard shack. As he looked to his left, he observed Giovacchini standing on the sidewalk in front of a large tree. There was a fence approximately 10 to 11 feet in height surrounding Giovacchini in the direction that he was running so he could only escape by scaling the fence.

Stiller observed Giovacchini with his shoulders squared, facing north, in the direction of Sola and Reed. Stiller saw Giovacchini move his right hand to his right waistband and grab what Stiller believed was a firearm inside a small holster. Shots were fired by the officers in front of him. Giovacchini did what looked like a "clean and snatch" and launched the object he had in his right hand into the air. The object went high and back in a southern direction towards the homes behind the fence. Stiller did not see where the object landed. Stiller saw Giovacchini fall to the ground.

Stiller gave Giovacchini commands to get/stay down on the ground and show his hands. Stiller directed Reed and Sola to come around to his position so they could "re-group" into an arrest team. Giovacchini was facing north and his feet were facing south. Most of his body was lying on the sidewalk. His hands were extended on the ground above his head.

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<sup>10</sup> Stiller did not realize Fontanez was on the south side of the guard shack as he was completely out of view. It was only after the scene was secured that he learned a third officer was involved.

Stiller requested an airship respond to the location to search for the object tossed by Giovacchini, which he believed to be a gun. The airship arrived and observed a handgun on the rooftop of the residence directly south of where the officer-involved shooting occurred.

## **Witness Statements**

### ***Britney Fleites***

Britney Fleites has known Giovacchini for many years. The police had contacted Fleites inquiring about Giovacchini's whereabouts. Giovacchini denied any involvement in the Knolls Lodge incident and told Fleites that he was not wanted.

On May 27, 2015, at approximately 3:00 a.m., Fleites picked Giovacchini up from his home in Torrance and drove him to an unknown residence in Lomita, where the two of them fell asleep. They left that residence at approximately 8:00 or 9:00 a.m. After making a brief stop for food, they drove to the Leo Hotel to pick up a sweater from a friend. They left the hotel after approximately 40 minutes. Before leaving the hotel, Fleites noticed Giovacchini had a black handgun tucked into his waistband. This was not unusual since Fleites spends a lot of time with Giovacchini and knows him to always carry a gun.

After leaving the hotel, Fleites drove Giovacchini to a liquor store across the street where he met an unknown female and sold her some "dope." Giovacchini had a large quantity of money and a "baggie" of drugs on him.

Upon leaving the liquor store, multiple police units attempted to pull them over. Giovacchini told Fleites to pull over to the right and then immediately began "freaking out," yelling at her not to stop. He told her that if she stopped she was going to die. Fleites was scared and told Giovacchini that she had to pull over but Giovacchini continued to insist that she not stop. Fleites and Giovacchini argued back and forth about whether she should stop. He yelled at her and told her that the police would shoot them.

Fleites eventually decided that she had to stop. She apologized to Giovacchini and he called her a "stupid fucking bitch." Fleites begged Giovacchini not to run. Fleites recalled on a prior occasion, Giovacchini told her that if the police pull him over, he would die before going to jail.

As she was stopping her vehicle, a police unit struck her vehicle and pushed it into another vehicle. Giovacchini exited her vehicle and ran. Fleites saw something in Giovacchini's hand as he was running but did not know what it was. She saw him throw unknown objects over the fence and heard approximately 15 gunshots before seeing Giovacchini fall face down to the ground. Once he was down, the officers came to her vehicle and placed her in handcuffs.

### ***Armando Cardenas***

On May 27, 2015, at approximately 1:05 p.m., Armando Cardenas was working as a security guard at the Harbor Village complex. He was in the guard shack standing at the main door



located on the north/east side of the shack. The top portion of the “Dutch door” was open and the bottom portion was closed. Cardenas had a clear view of Vermont Avenue.

Cardenas observed a police unit “clip” another vehicle. He observed Giovacchini exit a vehicle and run westbound towards the guard shack. Giovacchini used the south driveway, which is the exit lane, and continued running towards the vehicle exit gates. Cardenas exited the guard shack, activated the video camera on his work cell phone and began recording the incident. Cardenas walked on the north driveway and followed the officers while filming. He stood behind the officers to avoid interfering with the pursuit and captured the end of the incident from the northwest corner of the guard shack.

During the foot pursuit, Cardenas saw an unknown object in Giovacchini’s hand. Cardenas heard the officers yell at Giovacchini not to move. While the officers were yelling at Giovacchini, Cardenas saw him “flinch” and the officers started shooting. Cardenas believed Giovacchini may have been trying to throw an object. After the shooting, the officers called for an ambulance. Cardenas returned to the guard shack and notified his supervisor of the incident.

### **Video Recordings**

Two video recordings were obtained from Cardenas’ cell phone. In the first video, Stiller is seen on the north side of the guard shack exiting his vehicle and running south. As Stiller exits his vehicle, one shot is heard. As Stiller is running, four additional shots are heard. The officers are heard giving commands, “Put your fucking hands down!” and “Let me see your fucking hands!” Reed is seen west of the guard shack facing south. The video then shows Giovacchini, for the first time, laying on the ground just east of the exit gate near the north curb. The video pans to the east of the guard shack and ends. The second video shows Giovacchini being treated by paramedics east of the exit gate.

Surveillance video was obtained from the complex showing the front pedestrian gate, the guard house interior, the main gate, the main gate exit, and the main gate barrier arms. The videos do not contain any audio. While some of the officers’ actions were captured on the videos, including the firing of their weapons, Giovacchini did not appear in any of the videos.

### **LEGAL ANALYSIS**

Penal Code section 835a provides that any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

California permits the use of deadly force by police officers when necessary to effect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. *People v. Ceballos* (1974) 12 Cal.3d 470, 477-484; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; *Tennessee v. Garner* (1985) 105 S.Ct. 1694. Examples of forcible and atrocious crimes are murder, mayhem, rape and robbery. *Ceballos*, supra, 12 Cal.3d at 478. In such crimes, “from their atrocity and violence human life [or personal safety from great harm] either is, or is presumed to be, in peril.” *Id.*

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. If the person's beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505.

“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.

The evidence examined in this investigation shows that TPD officers were dispatched to assist in apprehending an attempted murder suspect who was known to be armed and dangerous. They were aware that the attempted murder was committed with the use of a firearm. The officers were familiar with Giovacchini from prior contacts and saw him seated in the passenger seat of the vehicle. The vehicle failed to yield and the officers observed Giovacchini moving within the vehicle as if he were retrieving an item or items from the back seat area.

In addition, while the officers were in pursuit of the vehicle attempting to effectuate the traffic stop, they observed the front passenger door open and close numerous times as if Giovacchini were preparing to jump out of the vehicle. Thus, the officers had reason to believe that Giovacchini may have armed himself and would attempt to flee or engage them in a dangerous encounter.

Once the vehicle came to a stop, Giovacchini exited the vehicle and ran towards a large, gated residential complex where many families reside and where, because of its size, he could readily conceal himself in order to evade arrest. Since Giovacchini was believed to have committed an attempted murder with a firearm, the officers were reasonable in their decision to use deadly force in order to effect his arrest under these circumstances.

In addition, Fontanez saw a handgun in Giovacchini's right hand. Giovacchini was standing in a bladed stance and looked back at Fontanez. Fontanez believed Giovacchini was going to turn and shoot him and Fontanez had no cover at that time. Reed observed Giovacchini put his hand down towards his waistband and believed Giovacchini was retrieving a weapon. Based upon these facts, Fontanez and Reed reasonably feared for their lives and fired their weapons in lawful self-defense and defense of others.

## **CONCLUSION**

Based on the foregoing, we conclude that Officers Sola, Fontanez and Reed used reasonable force to effect the arrest of Giovacchini, a violent fleeing felon. Moreover, Officers Fontanez and Reed acted lawfully in self-defense and defense of others when they used deadly force against Jason Giovacchini. We are therefore closing our file and will take no further action in this matter.

