



C A L I F O R N I A

DEPARTMENT of JUSTICE

Report on the Investigation into the Death of Matthew James Sova on July 15, 2021

Los Angeles County AB 1506

NOVEMBER 2022



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INVESTIGATION OF OFFICER INVOLVED SHOOTING

Background—AB 1506

Pursuant to California Assembly Bill 1506 (AB 1506), the California Department of Justice is required to investigate all incidents of an officer-involved shooting resulting in the death of an unarmed civilian in the state. Historically, these critical incidents in California had been primarily handled by local law enforcement agencies and the state's 58 district attorneys.

AB 1506, signed into law on September 30, 2020 and effective July 1, 2021, provides the California Department of Justice with an important tool to directly help build and maintain trust between law enforcement and the communities they serve by creating a mandate for an independent, statewide prosecutor to investigate and review officer-involved shootings of unarmed civilians across California. The California Department of Justice will investigate and review for potential criminal liability all such incidents covered under AB 1506, as enacted in California Government Code section 12525.3. Where criminal charges are not appropriate, the California Department of Justice is required to prepare and make public a written report, like this one, communicating:

- A statement of facts, as revealed by the investigation;
- An analysis of those facts in light of applicable law;
- An explanation of why it was determined that criminal charges were not appropriate; and
- Where applicable, recommendations to modify the policies and practices of the involved law enforcement agency.

Recommendations to modify policies and practices of the involved law enforcement agency will be based on the facts of the incident, any known policies and practices of the relevant law enforcement agency, and the experience and expertise developed by DOJ personnel, and specifically, DOJ's Civil Rights Enforcement Section (CRES). CRES investigates and litigates civil rights issues in the area of police practices and misconduct. While a broader investigation of LAPD based on this incident is not warranted or authorized at this time, pursuant to Government Code section 12525.3, recommendations relating to LAPD's policies and practices relevant to this incident are included below.

Privacy Statement

This report includes redactions of the names and other identifying information of witnesses and any family members of the decedent. The public interest in such information is limited as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure clearly outweighs any public interest in disclosure.

For reasons related to privacy, as well as readability of this report, the witnesses and key locations will be indexed as follows:

- Witness 1 (W-1), 911 Caller, W-1
- Witness 2 (W-2), husband of 911 Caller, W-2
- Witness 3 (W-3), woman on Hollywood Blvd., W-3
- Witness 4 (W-4), man on Hollywood Blvd., W-4
- Witness 5 (W-5), the mother of Sova, W-5
- Witness 6 (W-6), Security Guard, W-6

Introduction

On July 15, 2021, Los Angeles Police Officers Christopher Tabela and Isaiah Galvez responded to a call regarding a man with a gun on Hollywood Boulevard. They contacted Matthew James Sova, who pointed what appeared to be a pistol at Officer Tabela. The officers fatally shot Sova. The California Department of Justice (DOJ) investigated and reviewed the Officer-Involved Shooting (OIS) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 (2019-2020 Reg. Sess.)). This report is the final step in the DOJ's review of the fatal OIS of Matthew Sova, and is limited solely to determining whether criminal charges should be brought against the involved officers, and possible policy and practice recommendations. The review does not encompass or comment on any potential administrative or civil actions. It does, however, include policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). Upon thorough examination, and as discussed in detail below, we conclude that no criminal charges will be filed because the evidence is insufficient to prove that the officers committed a crime and the OIS was justified.

CAUTION: The images and information contained in this report may be graphic and disturbing. Therefore, viewer discretion is advised, especially for young children and sensitive individuals.

Summary of Incident¹

On Thursday, July 15, 2021, at 11:17 a.m., the LAPD Communications Division (CD) received a 911 call from W-1 who reported a man, later identified as Matthew Sova (decedent), walking west on the north sidewalk of Hollywood Boulevard at Wilcox Avenue carrying what appeared to be a small pistol in his hand. W-1 reported hearing Sova “acting crazy and loudly saying a bunch of different things.” W-1 was accompanied by her husband, W-2, who was providing information about the man with a gun for W-1 to relay to the 911 operator. W-2 reported hearing loud, aggressive yelling and belligerent cursing from Sova. They observed Sova cross the street onto the south sidewalk of Hollywood Boulevard and continue walking west.

At 11:19:02 a.m., LAPD CD broadcast the following information on the Hollywood radio frequency: “Hollywood Units, 415 man with a gun, Cherokee and Hollywood, Cherokee and Hollywood, approaching Las Palmas, male white, black hooded sweater, red shirt, carrying a pistol, yelling and harassing passersby, Code Three, Incident 1932.” 415 refers to the California Penal Code section for Disturbing the Peace. Code Three is an LAPD radio code that calls for an immediate response with lights and sirens.

In response to the broadcast, Los Angeles Police Officers Christopher Tabela and Isaiah Galvez, who were assigned to the Hollywood Area in a two person, marked black and white, Ford Explorer patrol car identified as “6A36,” indicated they would answer the call. Officer Tabela was driving the patrol car, and Office Galvez was in the front passenger seat handling radio communications.

At 11:19:42 a.m., Officer Galvez broadcast, “6A36, we will take that call Code Three from the station.” LAPD CD responded, “Hollywood units, 6A36 is responding Code Three from Hollywood station to Cherokee and Hollywood Boulevard.”

At 11:20:22 a.m., LAPD CD broadcast an update: “Hollywood Units, 6A36, additional on the 415 man with a gun. Suspect is a male white, red shirt with black sweater passing Las Palmas, approaching the Egyptian theater.”

At 11:20:52 a.m., Officer Galvez broadcast, “6A36, show us Code Six Hollywood and Las Palmas. Can you read us the comments again?” Code Six is an LAPD radio code that means the unit is conducting a field investigation at the scene of the call. Initially, officers had difficulty finding Sova as they drove west on Hollywood Boulevard. Officer Tabela can be heard on the Digital In-Car Video System (“DICVS”) and on both officers’ Body Worn Camera video (“BWC”) asking people on the street from his police vehicle, “You guys see a guy with a gun?”

¹ This report generally includes information about facts and circumstances leading up to the OIS, even if some of the information was unknown to the officers, in order to explain and give context to the entire incident.



Figure 5 - Sova approaching Scientology security guard with knife

Video surveillance recorded Sova approaching Scientology security guard W-6, who was on duty in front of the Church of Scientology building. Sova was holding a metallic object in the shape of a pistol, in his right hand down at his side, and a small black folding knife with an open blade, in his left hand. Sova raised the knife with the blade pointed upward as he looked at W-6. (Figure 5.)

Sova then switched the knife into his right hand and pointed it at W-6. W-6 moved backwards away from Sova and into the street. Sova began to walk away but turned back while holding the knife again in his left hand. He raised the knife to shoulder height, pointed it at W-6, and, according to W-6, shouted, “you should kill yourself you faggot.” Sova then turned and continued walking west on Hollywood Boulevard.

W-1 told the 911 operator that Sova had pointed a pistol at the security guard for Scientology. At 11:21:27 LAPD CD broadcast the following, “Hollywood units and 6A36, suspect has passed McCadden Place and is now in front of Scientology pointing the pistol towards the security guard. Additional on Incident 1932.”

While they searched for Sova on Hollywood Boulevard, the officers are heard on DICVS and BWC assigning both less than-lethal and lethal use of force responsibility. The agreed-on plan was for Officer Galvez to take responsibility for the use of non-lethal force, while Officer Tabela would be responsible for the use of lethal force, if necessary.



Figure 6 - Sova pointing metallic object as officers arrive in police vehicle

At 11:21:44, the officers identified Sova on the sidewalk, and drove into the oncoming eastbound lanes of Hollywood Boulevard in his direction. They angled the front of their patrol car towards his position on the sidewalk. When the patrol car came to a stop, and while the officers were still in their patrol car, Sova raised his right arm and pointed a metallic object at the police vehicle. (Figure 6.)

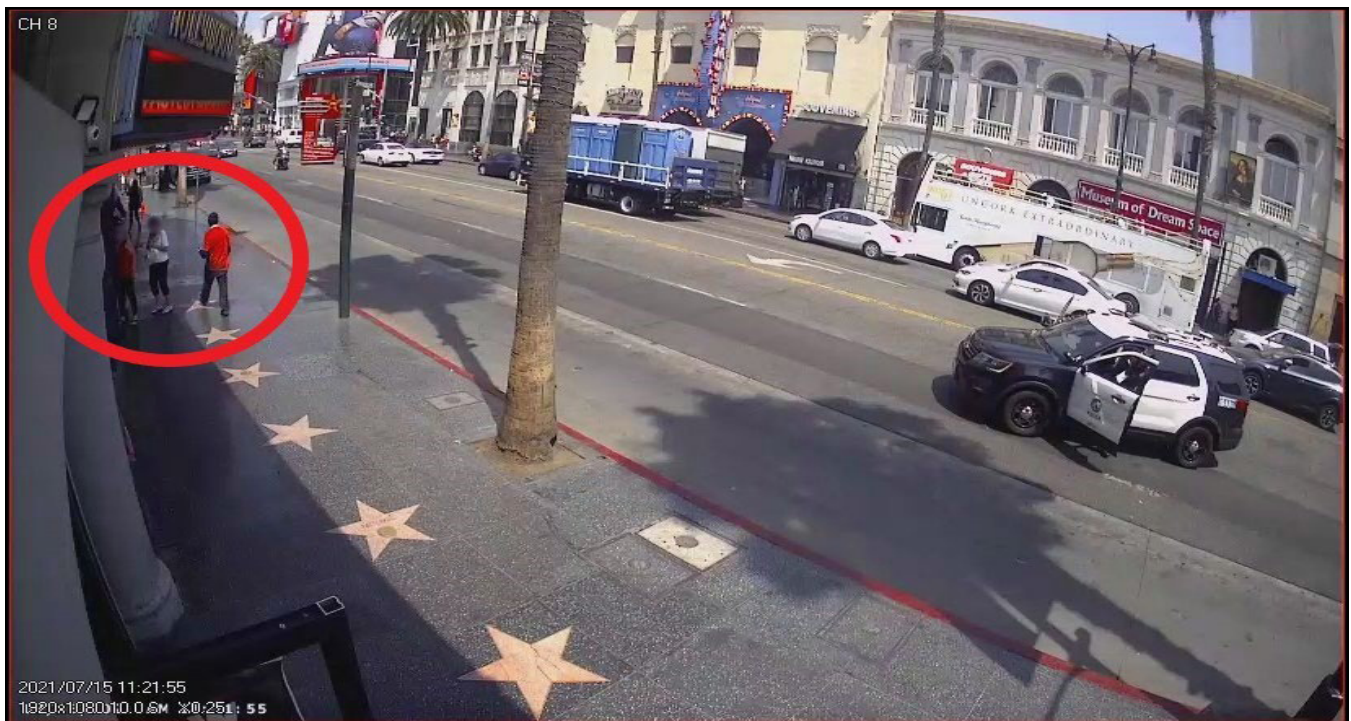


Figure 7 - Sova walking away from officers near pedestrians

Sova lowered his arm and continued walking west on the sidewalk around numerous pedestrians walking in both directions. (Figure 7.)

The officers quickly exited the patrol car. Officers Tabela and Galvez both drew their service firearms. Once out of their vehicle, both officers are heard on DICVS and BWC yelling verbal commands directed at Sova to “drop the fucking gun,” and “Drop the gun, drop the gun, drop the gun.” Officers Tabela and Galvez pursued Sova by running west in the eastbound lanes of Hollywood Boulevard, with their firearms in their hands.

During the brief foot pursuit, Sova walked closely by three women standing in front of the Guinness World Records Museum. One of the women, W-3, observed Sova approaching with a knife in his hand. She saw Sova point the knife towards the officers and yell something at the officers in an aggressive manner. Upon seeing this, she quickly pushed the other two women out of Sova’s path and into an adjacent building. At that same time, several pedestrians can be seen on video at McDonald’s (and in DICVS and BWC), walking on the sidewalk in front of a McDonalds restaurant.

Officers Tabela and Galvez ran approximately seventy-three feet down the street and caught up to Sova who was walking away from them on the sidewalk. The officers can be heard on Officer Tabela’s BWC ordering Sova to drop the gun and telling pedestrians to “move!” Sova looked over his right shoulder in their direction and stopped approximately four feet in front of the glass door and windows of a McDonald’s restaurant.

Officer Tabela stopped on the sidewalk, approximately 11 feet away from Sova and held his firearm with a two-handed grip pointed in Sova’s direction. Officer Galvez stopped just to the right and behind Officer Tabela, in the street, approximately 16 feet away from Sova. Officer Galvez held his firearm in his right hand and his radio in his left hand. Both officers again ordered Sova to, “Drop the gun.”



Figure 8 – Sova pointing metallic object at Officer Tabela

Sova turned his body sideways towards the officers. He quickly raised his extended right arm away from his body and aimed his hand at the officers. (Figure 8.) In his right hand, Sova held a metallic object that was in the shape of a pistol.



Figure 9 – Close-up of Sova pointing metallic object at officers



Figure 10 – Stationary camera view of Sova pointing metallic object at officers

Officers Tabela and Galvez, simultaneously fired three rounds each from their firearms, striking Sova five times. (Figure 9 & Figure 10.) It was determined that all six rounds were fired in a time span of 1.05 seconds.

After being shot, Sova’s upper body began to bend forward at the waist. Upon touching the ground with his right hand, Sova dropped the metallic item that was in his right hand and fell to the sidewalk on his back. When his body made contact with the sidewalk, a knife fell out of his right hand.

At 11:22:03 a.m., Officer Galvez began a broadcast as follows, “6A36.” At 11:22:07 a.m., immediately after the officer-involved shooting, Officer Galvez broadcast, “6A36, Officer needs help. Shots fired. Hollywood and Highland.” LAPD CD then broadcast, “All units, Officers needs help, Hollywood and Highland, shots fired, Officer needs help, Hollywood and Highland, shots fired. Any air unit come in on Hollywood frequency.”



Figure 11 - Photo of weapons after shooting

Immediately after the officer-involved shooting, Officer Galvez and Officer Tabela handcuffed Sova. On the ground next to Sova, there was a rose gold and silver butane scorch torch lighter resembling a small pistol, and a knife. (Figure 11.) BWC recorded Officer Tabela stating, “he had a knife too,” and he was also heard on BWC asking the question, “Man, why?”

Officer Tabela performed CPR on Sova, assisted by the first arriving officer Seargent Eric Helmstetter. They were later joined by LAPD Officers Cesar Corona and Kyle Poole who applied direct pressure to the gunshot wounds on the right side of Sova’s chest. They were relieved by paramedics from the Los Angeles Fire Department (LAFD) who arrived on scene approximately twelve minutes after the OIS. Sova was transported to Cedars-Sinai Medical Center and life-saving medical treatment was attempted. The life-saving measures were unsuccessful. Sova was pronounced deceased by Dr. Matthew Bloom at 12:07 p.m.

Investigation

Overview

On July 15, 2021, at approximately 12:44 p.m., the DOJ Division of Law Enforcement (DLE) California Police Shooting Investigation Team (CaPSIT) received notification of an OIS in the Hollywood area of Los Angeles. The incident involved the LAPD – Hollywood Patrol Division and was determined to be a qualifying event within Government Code section 12525.3. (For more information on the DOJ’s practices and procedures, see <https://oag.ca.gov/ois-incidents>.)

CaPSIT promptly responded to the incident scene to initiate a criminal investigation on behalf of the DOJ. A Deputy Attorney General (DAG) from the Attorney General’s Special Prosecutions Section also responded. When CaPSIT agents arrived, the incident location was being guarded by LAPD personnel, with the entire surrounding area blocked off with crime scene tape to preserve evidence.

The DOJ team observed the location of key items of evidence, paying particular attention to the area where the shooting had taken place. LAPD Forensics Division (“LAPD Crime Lab”) then arrived to collect evidence and document findings. The DOJ Bureau of Forensic Services (BFS) also responded to the scene to monitor the processing of the incident scene and collection of evidence by LAPD Crime Lab personnel.

After walking the incident scene and reviewing evidence, CaPSIT and the LAPD Force Investigation Division (FID) conducted a joint briefing with both agencies to provide an overview of the incident so that investigators had the same information before further steps were taken. After the briefing, CaPSIT special agents were assigned investigative tasks.

The LAPD officers involved in the incident were sequestered and declined to provide voluntary statements. (See *Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 714 [individuals have right to remain silent and decline to answer questions in the face of official questioning]; see generally *Miranda v. Arizona* (1966) 384 U.S. 436, 467.)

Statements were taken from firefighters and civilian percipient witnesses. The DOJ team and LAPD detectives reviewed BWC footage and video surveillance from a local business that captured the OIS using the LAPD mobile command post.

The DOJ investigation into the death of Matthew James Sova was comprehensive, thorough, objective, and independent. In all, seven firefighters/emergency medical personnel and thirteen civilian witnesses were interviewed, and one incident scene was processed for evidence. As a whole, hundreds of hours of investigation were conducted by the DOJ, LAPD, the DOJ BFS, and the LAPD Crime Lab.

Evidence Reviewed

- The incident scene Location #1, from 6500-6776 Hollywood Boulevard between Wilcox Avenue and Highland Avenue, Los Angeles, CA. (Figure 1.)
- Dispatch records and logs of the incident
- 911 audio recordings
- California Department of Justice criminal history information involving Sova
- Prior Police contacts involving Sova
- Body worn camera footage from the officers involved in the incident
- Interviews of all of the civilian witnesses associated with this incident (13)
- Interview of decedent’s family member

- Interviews of the responding support personnel from LAFD firefighters/emergency medical personnel (7)²
- Autopsy of Sova by Medical Examiner-Coroner, County of Los Angeles
- Laboratory Analysis Summary Report of Sova, dated September 17, 2021, Medical Examiner-Coroner, County of Los Angeles, Forensic Science Laboratories
- LAPD Property Report
- Sova's medical records
- LAPD Forensic Services Division Reports
- Photographs of incident scene and officers

Incident Scene Description

There was one incident scene associated with this OIS: Location #1, from 6500-6776 Hollywood Boulevard between Wilcox Avenue and Highland Avenue, Los Angeles, CA.

The encounter with LAPD officers took place on the south sidewalk of Hollywood Boulevard in front of the McDonald's restaurant, located at 6776 Hollywood Boulevard. (Figure 2.) When the OIS occurred, Sova was standing near the north facing storefront, which was comprised of glass windows and a large glass entry door. The sidewalk is made of black Terrazzo pavement panels with brass stars, brass lettering, and entertainment affiliated brass plaques in a coral Terrazzo star pattern.

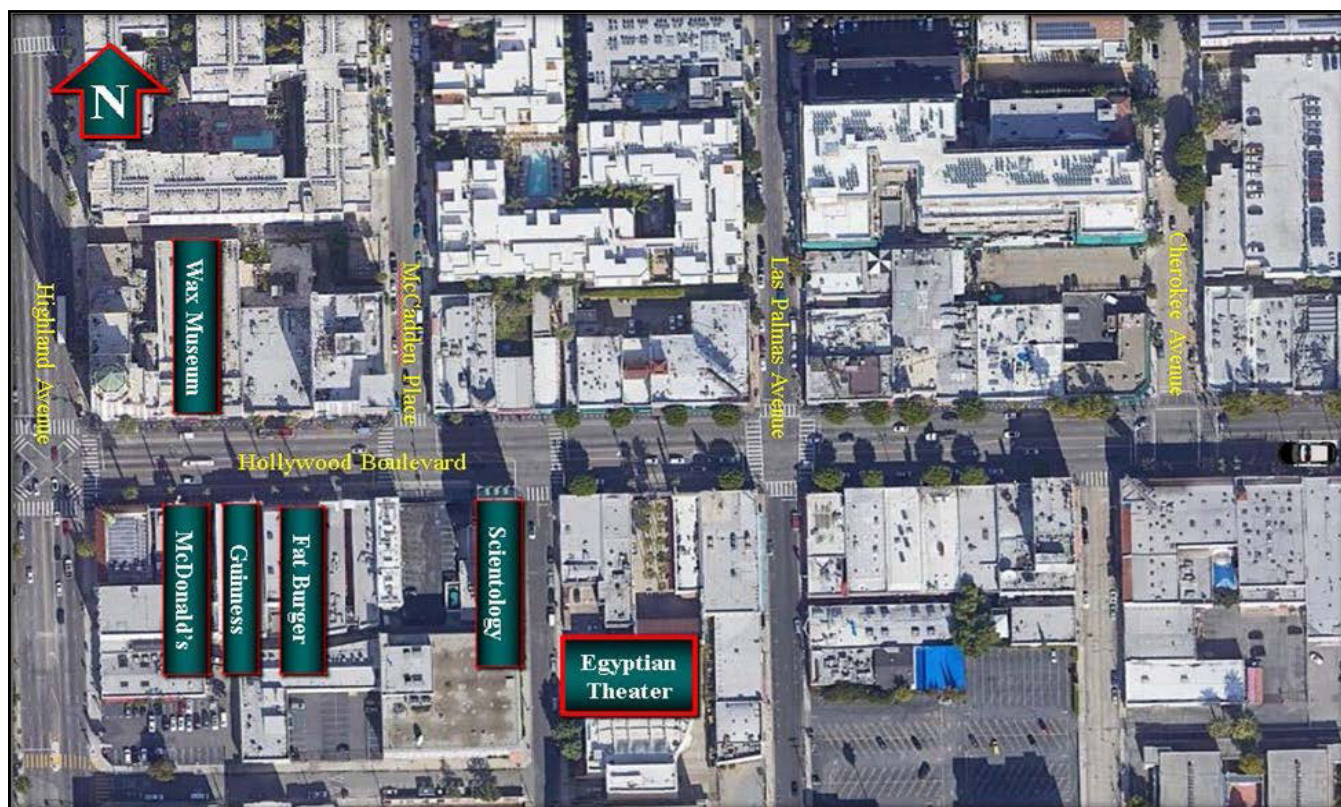


Figure 1 - Satellite view of shooting location

² Some of these personnel provided information about Sova's treatment, which is not summarized in this report. Others provided information about prior contacts with Sova, which is incorporated into information about Sova's background.

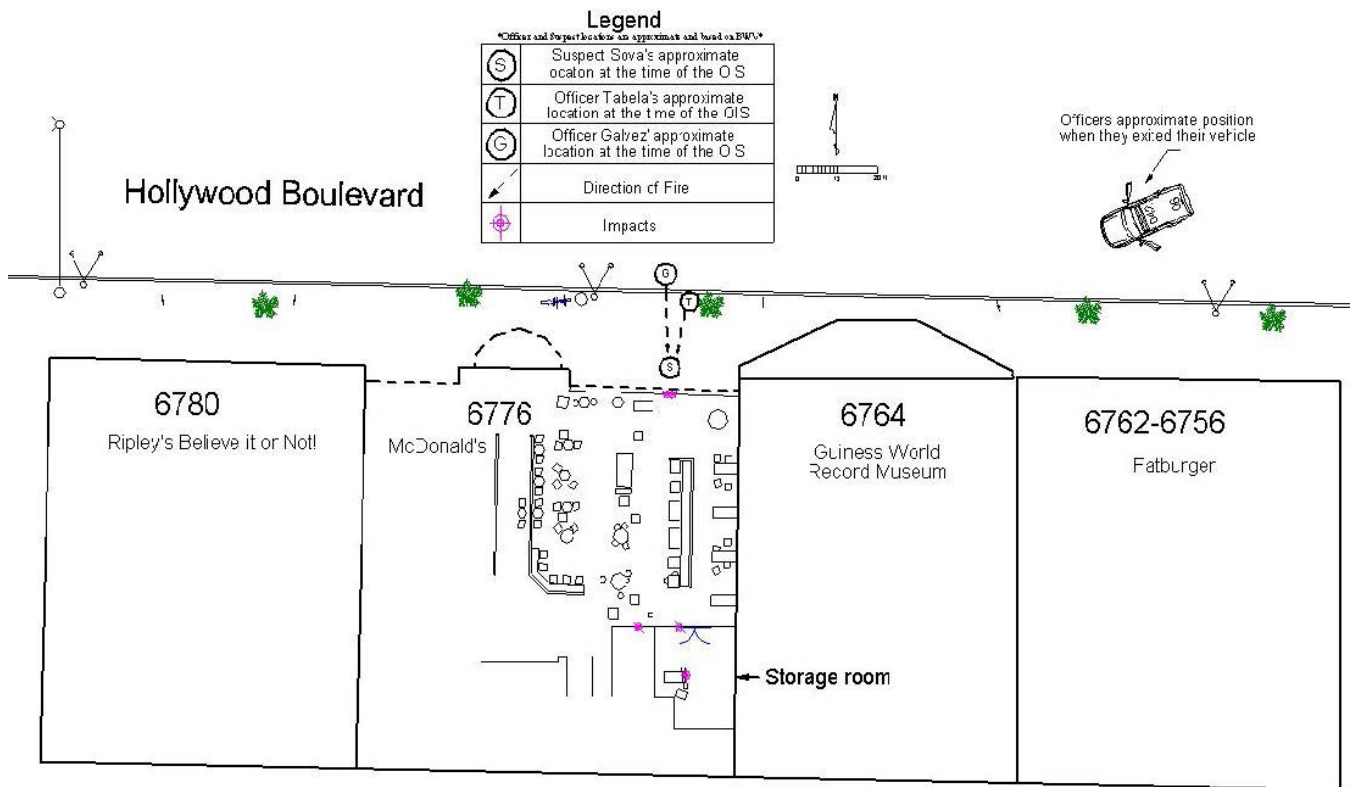


Figure 2 – Diagram of shooting location

The OIS occurred during daylight, with numerous open businesses and tourist attractions lining both sides of Hollywood Boulevard in the vicinity where the incident occurred. Pedestrian and vehicular traffic were heavy throughout the area. The elapsed time between the 911 call and the OIS was 4 minutes and 26 seconds. The elapsed time from when the involved officers received the radio call regarding a disturbance by the decedent and the OIS was 3 minutes and 5 seconds. The distance that officers pursued Sova from their vehicle to the OIS scene was approximately 73 feet.

Incident Scene Evidence Recovery

The evidence at the incident scene was processed by criminalists from the LAPD Crime Lab. Evidence recovery, scene documentation, and photographs were completed by the LAPD Crime Lab. A DOJ Criminalist also responded to the incident to monitor and assist in the processing of the incident scene. A total of 40 items of evidence were recovered and booked in conjunction with this investigation.

Weapons and Other Objects

A black “Kershaw Speed Safe” folding knife, with an overall length of 6 ¾ inches and a three-inch drop point blade, was recovered from the sidewalk. (Figure 3.)

Also recovered from the sidewalk, was a two-tone butane scorch torch lighter with a rose gold colored handle and a silver nozzle. (Figure 4.)



Figure 3 - Black “Kershaw Speed Safe” folding knife



Figure 4 - Butane scorch torch lighter

Firearms and Ballistics Evidence

Six fired 9-millimeter cartridges were seized at the scene. They were located on the sidewalk and in the street. A total of six fired bullets were recovered. Three were recovered from the scene and three were recovered during the autopsy. Based on an analysis of the evidence, the distance between Officer Tabela and Sova when Officer Tabela fired his firearm was estimated to be approximately 11 feet. The distance between Officer Galvez and Sova when Officer Galvez fired his firearm was estimated to be approximately 16 feet.

It was determined that Sova was struck by five of the six fired bullets. Three bullets were recovered from Sova’s body. Two fired bullets travelled through Sova’s body and exited. One of those two fired bullets was recovered from Sova’s hospital stretcher. Two bullets were recovered in the McDonald’s

restaurant. It was impossible to determine which of those two fired bullets had first traveled through Sova's body before exiting into the restaurant.

All evidence was seized and collected at the scene by the LAPD Crime Lab for later analysis.

Vehicular, Body-Worn, and Civilian Camera Footage

Body-worn camera (BWC), digital in-car video system (DICV), cell phone video, and stationary surveillance cameras captured key portions of the incident. Each captured part of the incident from a different angle. Freeze frame images from the videos were used to summarize the incident for this report.

As a whole, the relevant footage captured officers arriving at the incident scene, approaching the decedent, and confronting him in front of the McDonald's restaurant. The footage showed Sova pointing his arm towards and then walking away from the officers as they drove up and exited their marked patrol car. Sova had a metallic object in his hand that was in the shape of a pistol. Officer Galvez yelled commands at Sova to drop the gun. Seconds later Sova pointed arm and hand at the officers pointing the metallic object at Officer Tabela. The officers discharged their firearms, striking Sova. Sova dropped the torch lighter from his right hand, bent forward at the waist, and fell to the sidewalk on his back. When he hit the ground, the knife fell out of his right hand.

Digital In-Car Video System (DICVS)

The DICVS video of one patrol car occupied by Officers Tabela and Galvez was activated at the time of the incident. It recorded the officers' responses to the radio call, Sova's actions, and the officer's foot pursuit leading up to the OIS, and the OIS incident.

Body Worn Camera video (BWC)

The involved officers' Body Worn Cameras were activated at the time of the incident and recorded their response to the radio call, Sova's actions, the officer's foot pursuit and the OIS.

Stationary Video

Eight surveillance videos were recovered from various stationary cameras positioned at businesses on Hollywood Boulevard. The following captured footage relevant to the shooting:

- Footage from the McDonald's camera captured the OIS and the officers administering aid to Sova. The camera captured the impacts from the officers' rounds striking the glass door and the movement of civilian patrons who were seated inside the restaurant at the time of the OIS.
- Footage from the Hollywood Wax Museum across the street from the McDonald's, captured pedestrians moving out of Sova's path, the involved officers approaching Sova and the ensuing OIS.
- Footage from Fatburger, adjacent to McDonalds, shows Sova pointing the butane torch lighter at the involved officers while in their patrol car as they arrived on scene.
- Church of Scientology video footage shows Sova pointing his knife at Security Officer W-6.
- Footage from the Supply Sergeant, Red White and Blue on Hollywood, Hot Mother Chicken, and Hollywood 21 Mini Market, recorded images of Sova walking.

Social Media

On July 26, 2021, LAPD provided a video News Release of the Officer-Involved Shooting incident of July 15, 2021: <https://www.youtube.com/watch?v=ggWD7ldnkXM>

Photographs

On July 15, 2021, after the OIS, LAPD Technical Investigative Division (“LAPD TID”) photographed the inside and outside areas of McDonald’s where the OIS occurred, and various items of evidence, including the black knife and the butane torch lighter. LAPD TID also photographed Officers Tabela and Galvez.

Communications

A copy of the LAPD CD computer-generated Incident Recall printout associated with this occurrence was obtained. A digital recording of the Hollywood Area Base Frequency, radio traffic at the time of this incident, was also obtained as part of the investigation.

Autopsy

Dr. Richard Ou performed an autopsy on July 21, 2021, at the office of Los Angeles County Department of Medical Examiner-Coroner. He determined the cause of death to be multiple (five) gunshot wounds. There was no evidence of close-range firing on the skin around any of the entrance gunshot wounds. Two different sets of projectiles were recovered.

There were five (5) penetrating and perforating gunshot wounds, and they were numbered them as indicated below. The numbering of wounds was for descriptive purposes and do not imply or suggest sequence or severity of injuries.

- Gunshot Wound No. 1 entered Sova’s right lateral chest. The bullet had a trajectory from front to back, right to left, and down. A deformed copper-jacket projectile was recovered from the left back soft tissues and was ultimately determined to have been fired from Officer Tabela’s firearm.
- Gunshot Wound No. 2 entered Sova’s right lateral chest. The bullet had a trajectory from front to back, right to left and down. A deformed copper-jacket projectile was recovered from the left pleural cavity of Sova’s body.
- Gunshot Wound No. 3 entered Sova’s right chest and exited via the left abdomen. The bullet had a trajectory from back to front, right to left, and down.
- Gunshot Wound No. 4 entered Sova’s right lower abdomen and exited via left pelvis. The bullet had a trajectory from right to left.
- Gunshot Wound No. 5 entered Sova’s right back. The bullet had a trajectory from back to front, and down. A deformed copper-jacket projectile was recovered from the right abdomen soft tissues and was ultimately determined to have been fired from Officer Galvez’s firearm.

The blood toxicology was positive for the presence of methamphetamine, amphetamine, and cannabinoids.

Involved Police Officers

There were two sworn law enforcement officers involved in this incident who discharged their firearms: Officer Christopher Tabela and Officer Isaiah Galvez. Both of the officers declined to provide voluntary statements. Police officers, like all individuals, have right to remain silent and decline to answer questions in the face of official questioning. (*Spielbauer v. County of Santa Clara*, supra, 45 Cal.4th at p. 714; see generally *Miranda v. Arizona*, supra, 384 U.S. at p. 467.)

Public employees, including police officers, may be compelled by an employer to answer questions for administrative purposes, but the use of such statements in criminal proceedings is prohibited. (Lybarger v. City of Los Angeles (1985) 40 Cal.3d 822, 827-828, citing Lefkowitz v. Turley (1973) 414 U.S. 70, 77-79, Garrity v. State of New Jersey (1967) 385 U.S. 493, 500.) Accordingly, no compelled statements were considered as part of the investigation.

Interviews of Civilian Witnesses

Twelve civilian witnesses were interviewed pursuant to this investigation. The following five statements are summaries of interviews, which describe the incident from the point of view of each person. The other seven interviews corroborate these witness statements but do not provide additional information necessary to this investigation. The interviews contain facts relayed by the witnesses that may be inaccurate or inconsistent with the facts of this incident as they are currently understood. (An additional sixteen witnesses were interviewed but they only heard the incident and did not observe the OIS.)

W-1

W-1 was interviewed on July 15, 2021. W-1 first observed Sova walking behind her and her husband as they were walking on the north sidewalk of Hollywood Boulevard at Wilcox Avenue. W-1 heard Sova “going a little crazy, saying a bunch of different things.” W-1 was informed by her husband that Sova was in possession of a pistol and W-1 initiated the 911 telephone call to report him to police.

W-1 told 911 that a man, later identified as Matthew Sova, was walking on the north sidewalk of Hollywood Boulevard at Wilcox Avenue in a westbound direction carrying what appeared to be a pistol in his hand. W-1, who was accompanied by her husband, W-2, continued walking westbound on the north sidewalk of Hollywood Boulevard and remained on the telephone with 911 to provide updates on Sova’s path of travel. She also reported to the 911 operator that Sova had pointed a firearm at a Scientology security guard.

W-2

W-2 was interviewed on July 15, 2021. According to W-2, he heard “very loud, very aggressive yelling a lot of belligerent cursing.” W-2 then noticed that his wife had delayed her walk in the attempt to avoid Sova, and they allowed Sova to pass them. W-2 said that Sova had “what appeared to be like a small handgun or pistol.” As W-1 was on the 911 telephone call with LAPD CD, W-2 observed Sova cross the street onto the south sidewalk of Hollywood Boulevard and continue walking westbound.

W-6

W-6 was interviewed on July 15, and 26, 2021, at the Scientology center. On the day of the OIS, he was working that day as a Security Guard at the Church of Scientology. W-6 saw Sova was walking down the street carrying two objects: a folding knife and a “chrome item.” Sova pointed the open knife at W-6. W-6 believed Sova could harm him. W-6 stated that he did not know what was going to happen. He stepped back into the street for, “you know, safety concerns because I didn’t want to be a target for him.” According to W-6, “Sova stated, ‘You Should kill yourself, you faggot.’” Sova then turned and continued walking on Hollywood Boulevard.

W-3

W-3 was interviewed on July 15, 2021. W-3 stated she saw Sova point something towards the officers and verbally yell something at the officers in an aggressive manner. Upon seeing this, she quickly pushed the other two women she was with out of Sova’s path and into the adjacent building.

W-4

W-4 was interviewed on July 15, 2021. W-4 and his girlfriend were walking on the north sidewalk of Hollywood Boulevard, across from the McDonald's restaurant when they observed the OIS.

W-4 stated, "And so I started to watch and as he (Sova) was running he had been got near the McDonald's building front door. And he then stopped running, turned around towards the officers with either something in hand that looked to be a weapon. I thought it was a pistol. I'm not sure. But he then pulled, pulled it out and pointed it towards the officers and at that point they then fired, I believe, three to four shots after."

Matthew James Sova – Background

Sova was born on January 30, 1973. At the time of the OIS incident, he was five feet and seven inches feet tall, and he weighed 162 pounds.

Sova's mother, W-5, was telephonically interviewed on July 15, 2021, and August 2, 2021. W-5, who resides in Michigan, provided background information about Sova. At some point, Sova moved to California, but he returned to Michigan in 2017. At that time, Sova checked himself into a mental health facility in Michigan, but quickly left the facility and returned to California. W-5 believed that, at the time of the OIS, he was homeless and living on the streets of Los Angeles. The last time she heard from him was when he called her on July 14, 2021, the day before the OIS.

Between August 2017 and January 2021, Sova had twelve law enforcement contacts related to his mental health status. Ten of those contacts were with the LAPD Mental Health Unit. In these contacts, Sova appeared to be experiencing mental health issues characterized by irrational communication, aggressive delusional behavior, and paranoid tendencies. Fire Department personnel reported that Sova had thrown himself in front of fire trucks in the past. His behavior also included telling patrol officers that he was a police officer and multiple incidents of him running in the street dangerously close to moving vehicles. For example, in March 2018, he acted aggressively towards passers-by and elbowed one individual; he was arrested on multiple outstanding warrants. In June 2019, Sova jumped in front of a moving police patrol car while officers were responding to an unrelated call. He was evaluated and transported for medical treatment. His last known mental health episode was on January 29, 2021. He was observed running in and out of traffic and trying to enter parked vehicles. He was evaluated and transported for medical treatment by officers due to his behavior.

Sova had five prior convictions dating from 2012 to 2018, with the most recent conviction being for battery.

Applicable Legal Standards

Homicide is the killing of one human being by another. (People v. Beltran (2013) 56 Cal.4th 935, 941.) There are two types of criminal homicide, murder and manslaughter.

Murder

Murder is the unlawful killing of a human being with malice aforethought. (Cal. Pen. Code, § 187, subd. (a).) Murder is divided into first and second degrees. A willful, deliberate, and premeditated killing is murder of the first degree. (Pen. Code, § 189; People v. Hernandez (2010) 183 Cal.App.4th 1327, 1332.)

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation, that would support a conviction of first-degree murder. (People v. Knoller (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; People v. Hernandez, supra, 183 Cal. App.4th at p. 1332.) Malice is express when there is an “intent to kill.” (Pen. Code, § 188; People v. Delgado (2017) 2 Cal.4th 544, 571.) Malice is implied “when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life.” (People v. Dellinger (1989) 49 Cal.3d 1212, 1215.)

A homicide may also be reduced to second degree murder if premeditation and deliberation are negated by heat of passion arising from subjective provocation. If the provocation precludes from deliberating or premeditating, even if it would not cause an average person to experience deadly passion, the crime is second degree murder. (People v. Padilla (2002) 103 Cal.App.4th 675, 678.)

Voluntary Manslaughter

Manslaughter is an unlawful killing without malice. (Pen. Code § 192; People v. Thomas (2012) 53 Cal.4th 771, 813.) Several factors may preclude the formation of malice and reduce a killing that would otherwise be murder to voluntary manslaughter including: (1) heat of passion, and (2) imperfect self-defense. (People v. Moya (2009) 47 Cal.4th 537, 549.)

Imperfect self-defense is the killing of another human being under the actual but unreasonable belief that the killer was in imminent danger of death or great bodily injury and the use of deadly force is necessary to defend against that danger. Such a killing is deemed to be without malice and thus cannot be murder. (People v. Cruz (2008) 44 Cal.4th 636, 664.) The doctrine of imperfect self-defense cannot be invoked, however, by a person whose own wrongful conduct (for example, a physical assault or commission of a felony) created the circumstances in which the adversary’s attack is legally justified. (People v. Booker (2011) 51 Cal.4th 141, 182.)

Justifiable Homicide Based on an Officer’s Reasonable Belief that the Use of Deadly Force Is Necessary

A homicide is justified and lawful if committed in self-defense. Self-defense is a complete defense to a homicide charge, and if found, the killing is not criminal. (People v. Sotelo-Urena (2016) 4 Cal. App.5th 732, 744.) When a person is charged with a homicide-related crime and claims self-defense, the prosecution must prove beyond a reasonable doubt that the homicide was not committed in self-defense. (People v. Winkler (2020) 56 Cal.App.5th 1102, 1167.)

Penal Code sections 196 et. seq. sets forth the law of self-defense in homicide cases. Specifically, Penal Code section 197 lists the circumstances where homicide is justifiable, which includes self-defense or the defense of others. (Pen. Code, § 197, subd (1).) Self-defense arises when a person actually

and reasonably believed in the necessity of defending against imminent danger of death or great bodily injury. (*People v. Randle* (2005) 35 Cal.4th 987, 994.) There is both a subjective and objective component to a self-defense claim. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1082.)

The subjective element of self-defense requires that a person actually believes in the need to defend against imminent peril or great bodily injury. (*People v. Viramontes* (2001) 93 Cal.App.4th 1256, 1262.) The objective element also requires that the person's belief be objectively reasonable. In assessing the objective element, the trier of fact must consider what would appear to be necessary to a reasonable person in a similar situation with similar knowledge by assuming the point of view of a reasonable person in the position of the accused. (*People v. Brady* (2018) 22 Cal.App.5th 1008, 1014, citing *People v. Humphrey*, *supra*, 13 Cal.4th at pp. 1082-1083.)

When considering the objective reasonableness of a person's belief, it is worth noting that reasonableness is assessed in terms of a person of ordinary and normal mental and physical capacity. A person's individual background is not the standpoint from where reasonableness is considered. (*People v. Brady*, *supra*, 22 Cal.App.5th at pp. 1014-1015.) However, a jury may take into account the knowledge that a person had which might increase his or her ability to accurately predict the risk of impending violence. (*Id.* at p. 1017.) For example, knowledge of another person's prior threatening or violent conduct or reputation for dangerousness may provide evidence to support reasonable belief in imminent harm. (*People v. Bates* (2019) 35 Cal.App.5th 1, 9-10.)

Another aspect of self-defense is the assessment of whether danger was imminent. Mere fear that a danger will become imminent is not sufficient. (*People v. Lopez* (2011) 199 Cal.App.4th 1297, 1305.) Fear of future harm, regardless of how great the fear or the likelihood of the harm, will not suffice. (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) Imminent peril has been defined as appearing to a person as "immediate and present and not prospective or even in the near future. An imminent peril is one, that from appearances, must instantly be dealt with." (*People v. Lopez*, *supra*, 199 Cal.App.4th at p. 1306, quoting *People v. Aris* (1989) 215 Cal.App.3d 1178, 1187.)

The amount of force used by a person is also something that must be found to be reasonable by the trier of fact. "[O]nly that force which is necessary to repel an attack may be used in self-defense; force which exceeds the necessity is not justified." (*People v. Hardin* (2000) 85 Cal.App.4th 625, 629, quoting *People v. Clark* (1982) 130 Cal.App.3d 371, 380.) In a related vein, "deadly force or force likely to cause great bodily injury may be used only to repel an attack which is in itself deadly or likely to cause great bodily injury." (*Id.* at pp. 629-630.) Even if an individual was in actual and reasonable belief of imminent danger, the use of force may not exceed what is reasonably necessary to repel the attack. (*Ibid.*)

Penal Code section 196 provides a justification for homicide committed by a peace officer when the use of force complies with Penal Code section 835a. Effective January 1, 2022, Penal Code section 835a was amended to further refine when an officer's deadly use of force is justified. Under section 835a, subdivision (a)(2), peace officers may lawfully use deadly force "only when necessary in defense of human life." To determine whether deadly force is necessary, "officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." (Pen. Code, § 835a, subd. (a)(2).) Tactical conduct and decisions preceding the use of deadly force are relevant, as part of the totality of circumstances, when determining whether the use of deadly force was reasonable. (*Hayes v. County of San Diego* (2013) 57 Cal.4th 622, 637-639; *Koussaya v. City of Stockton* (2020) 54 Cal.App.5th 909, 935.)

When an officer's use of force is evaluated, it must be considered "from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force." (Pen. Code, § 835a, subd. (a)(4).)

An officer may use deadly force only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary when: (1) defending against an imminent threat of death or great bodily injury to the officer or another person or (2) to apprehend a fleeing person who has committed a felony that threatened or resulted in death or great bodily injury and the officer reasonably believes the person will cause death or great bodily injury if not immediately apprehended. (Pen. Code, § 835a, subds. (c)(1)(A), (B))

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or to another person. Totality of the circumstances means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. (Pen. Code, § 835a, subd.(e))

"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." (Graham v. Connor (1989) 490 U.S. 386, 396.) "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." (Id. at pp. 396-397.) "[T]he question is whether the officers' actions were 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." (Id. at p. 397.)

The People have the burden of proving beyond a reasonable doubt that the killing was not justified. It is not a criminal defendant's burden to prove that force was necessary or reasonable. The People must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others. (People v. Frye (1992) 7 Cal.App.4th 1148, 1158; People v. Banks (1976) 67 Cal.App.3d 379)

Legal Analysis

The DOJ has completed an independent investigation and review of the facts and circumstances that led to the death of Matthew Sova. This analysis is based on all of the evidence provided to the DOJ in this matter, including police reports, witness statements, forensic evidence, Coroner's report, body-worn camera footage, digital in-car video, and surveillance footage from the incident location. The issues presented in this OIS are whether Officers Christopher Tabela and Isaiah Galvez acted lawfully in self-defense or defense of others, and whether their actions are subject to criminal prosecution. A detailed analysis of the evidence surrounding the OIS shows that Officers Tabela and Galvez likely believed they acted in self-defense and in the defense of others, and that they reasonably believed the use of deadly force was necessary to defend against an imminent threat of death or great bodily injury to the officers or others. Therefore, the shooting was justified, and a criminal prosecution is unsupported by the evidence.

Although neither officer gave a statement, the totality of the evidence shows that the officers believed they were acting in self-defense or defense of others. The evidence indicates that the officers believed Sova had a pistol. Both officers were informed by multiple radio broadcasts that Sova was armed with a pistol. The first radio broadcast identified Sova as a “man with a gun,” and later said he was “carrying a pistol, yelling and harassing passersby.” Two additional radio broadcasts confirmed that Sova was armed with a “pistol” and “gun” respectively. Thus, at the point of contact, the officers had been informed, four separate times in three different radio broadcasts, that Sova was armed with a pistol.

Officer Galvez also shouted, “he’s got a gun,” as he exited the patrol car, and both officers repeated demands to Sova to “drop the gun.” These commands reflect their belief that the metallic object held by Sova was a pistol. Further, they did not fire upon Sova until he pointed the metallic object at Officer Tabela. The evidence thus shows that, at a minimum, the officers believed that Sova posed a threat of great bodily injury or death to Officer Tabela. Therefore, Officers Tabela and Galvez discharged their firearms in the belief that it was necessary in self-defense and defense of others respectively.

In addition, the evidence shows that both officers’ belief, that the use of deadly force was necessary to defend against an imminent threat of death or great bodily injury, was reasonable. Both officers had many reasons to believe that the metallic object held by Sova was a pistol.

In addition, when the patrol car stopped near Sova, he pointed a metallic object at them in the same manner a person would point a pistol. Sova also ignored at least four separate commands to “drop the gun.” The size, shape and color of the object they observed in Sova’s hand were consistent with that of a small pistol. Finally, in the second before the shooting, Sova pointed the metallic object in a way that looked as though he was aiming a pistol directly at Officer Tabela.

Moreover, the physical evidence, the metallic object held by Sova, resembled a small pistol. Sova had a “Scorch Torch” butane lighter with a rose gold colored pistol grip and a silver nozzle that resembled a stainless-steel barrel. The torch lighter was in a size, shape, and color of a small pistol.

The evidence also shows that the officers, believing Sova was armed with a pistol, also reasonably believed that Sova posed an imminent threat of harm, to the two officers and possibly to members of the public in the area. Video shows that the street was busy and the sidewalk was crowded with pedestrians who were close enough to Sova to be in danger. The officers had also had been informed, from radio transmissions, that Sova had harassed civilians and had threatened a security guard with a gun. As they drove up, and while still in their patrol car, Sova pointed what appeared to be a pistol in his right hand at the patrol car. Both Officer Tabela and Officer Galvez ordered Sova to “drop the gun” multiple times. Although Sova looked at the officers, he refused to comply. Instead, he lowered his arm and walked away. With this background of refusing to comply with commands and disruptive conduct with civilians, Sova stopped, turned to face the officers, and pointed what appeared to be a pistol directly at Officer Tabela.

Under these circumstances, the officers could reasonably believe that Sova was about to fire a pistol at Officer Tabela. Therefore, Officer Tabela could reasonably believe that Sova was armed and posed an imminent threat of great bodily injury or death to him, and Officer Galvez could reasonably believe that Sova was armed and posed an imminent threat to his partner. The officers may have also reasonably believed that Sova posed a threat to the civilians in the area. The initial radio broadcast stated that a man with a gun was yelling and harassing passersby, and pedestrians were present at the shooting location.

The officers could also reasonably believe that lethal force was necessary given the immediate lethal threat that Sova appeared to present. As noted above, the officers' initially planned for Officer Galvez to deploy non-lethal force; there were no recorded statements explaining why Officer Galvez did not follow that plan. Nevertheless, the failure to abide by an initial plan does not show that Officer Galvez's belief in the need for lethal force was unreasonable. Instead, the officers could reasonably believe that lethal force was necessary to prevent what they perceived to be imminent harm from Sova who appeared to demonstrate the present ability, opportunity, and apparent intent to use deadly force.

Conclusion

The evidence does not show, beyond a reasonable doubt that Officers Galvez or Tabela acted without the intent to defend themselves and others from what they reasonably believed to be imminent death or serious bodily injury. Further, the totality of the evidence, including Sova's threats with what appeared to be a pistol directed at the involved officers, Sova's disregard for law enforcement's commands to drop the object, and Sova's act of pointing the apparent pistol at Officer Tabela, shows that the officers reasonably believed that the use of deadly force was necessary. Because the shooting was justified by self-defense and defense of others, criminal charges are unwarranted, and no further action will be taken in this matter.

Policy and Practice Recommendations

Per Gov. Code, § 12525.3, subd. (b)(2)(B)(iii), the DOJ offers the following recommendations:

1. Ensure that Department personnel are informed and trained regarding LAPD's policies, processes, and procedures related to the engagement of the LAPD's Mental Evaluation Unit and the deployment of its Systemwide Mental Assessment Response Team (SMART), and, specifically, how and when dispatchers and officers alert and coordinate with such units, as well as LAPD supervisors, when responding to situations involving individuals experiencing a potential mental health crisis.
2. Review of the specific events in this case should be undertaken to evaluate if the harm to Sova and potential risk to officers could have been avoided. In this case, the initial 911 call for assistance described a man "acting crazy and loudly saying a bunch of different things," thus strongly suggesting that the person in question was having some sort of mental health episode, as opposed to someone who was an active assailant. Moreover, in the course of less than four years, Sova had twelve separate interactions with LAPD related to his mental health, and ten of those prior contacts were with LAPD's Mental Health Unit, which could have offered some knowledge or expertise of Sova's mental state had they been involved in responding to the situation. Here, however, there is no mention of that Unit being alerted or contacted when the initial calls came in, despite the fact that LAPD's SMART program includes co-responders with patrol units for calls that potentially involve mental health crises for the purpose of de-escalating the situation as quickly as possible. Nor was there any discussion between the officers regarding a possible contact with a person having a mental health crisis.
3. In conjunction with the review recommended in #1 above, the Department should similarly evaluate what, if any, other resources were available and should have been deployed based on

the initial call for service, to address a potential mental health crisis and/or an individual alleged to be disturbing the peace with a gun in a highly-populated area during a busy time of day. For example, one two-person patrol unit responded to this call. Given the potential for harm by an individual reportedly acting erratically and carrying a gun on a busy public street frequented by tourists and others, the LAPD should evaluate whether additional units should have responded to the call. Doing so may have given the officers time to engage in meaningful de-escalation or other tactical operations that could have resulted in a different outcome.

4. Evaluate whether the Department's policies, processes, procedures, and training related to alerting and coordinating with LAPD's Mental Evaluation unit and Systemwide Mental Assessment Response Team (SMART), and any other available resources, if determined to be sufficient, were properly executed in this case by the LAPD Communications Division, including its 911 operators and dispatchers, as well as Officers Galvez and Tabela. If it is determined that these policies, processes, procedures, and training were not properly followed by any of the above personnel, then prompt appropriate corrective action should be taken.
5. Review the Department's policies, processes, procedures, and training, including, but not limited to, Department Manual Section 1/556.10, Policy on use of Force, for potential use of de-escalation tactics. The Department's own policy states that "[o]fficers shall attempt to control an incident by using time, distance, communication, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible and reasonable to do so." It further states that "[u]nnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm." Here, Officers Galvez and Tabela apparently drew their firearms as soon as they exited their vehicle (or shortly before exiting) upon encountering Sova, and immediately began yelling at Sova. In addition, at one point, Sova turned his back on the officers and walked away from them resulting in a potential opportunity for the officers to engage in de-escalation or utilize less lethal force, however, the officers pursued Sova with their firearms in their hand and just prior to shooting Sova, Officer Galvez had his radio in one hand and firearm in the other, thus limiting the range of outcomes. LAPD should develop guidance and training for officers to support them in developing techniques that could be more effective when encountering an individual armed with a gun and/or who has been reported to be displaying behavior consistent with a mental health crisis.
6. Evaluate whether the Department's policies, processes, procedures, and training related to de-escalation, if determined to be sufficient, were properly executed in this case by Officers Galvez and Tabela. If it is determined that these policies, processes, procedures, and training related to de-escalation were not properly followed by Officers Galvez and Tabela, then prompt appropriate corrective action should be taken.
7. Review the Department's policies, processes, procedures, and training for development of tactical action plans such as the one that Officers Galvez and Tabela apparently agreed upon prior to their contact with Sova, with regard to the respective responsibility for deploying lethal and less-lethal force in a response to a call for service or emergent situation. The Department's policies, processes, procedures and training should further be reviewed to ensure that a plan developed for the use of less-lethal force is not necessarily or inappropriately conflated with a plan for de-escalation, both of which may be needed to adequately respond to an individual allegedly disturbing the peace with a gun in a highly-populated area. While Officers Galvez and Tabela developed a plan of action here, it appears from the facts developed in this

investigation that this plan was immediately abandoned upon the officers' first encounter with Sova. The benefit of such action plans is, ideally, reduced lethality, but they require focus and communication. Both officers transitioned to a lethal response almost immediately upon arriving at the scene even though the individual turned and walked away. Transition during a scenario should be part of any such planning and training. If such, policies, processes, procedures, and training are deemed to be deficient, then immediate corrective measures should be implemented.

8. Evaluate whether the Department's policies, processes, procedures, and training for development of tactical actions plans, if determined to be sufficient, were properly executed in this case by Officers Galvez and Tabela. If it is determined that these policies, processes, procedures, and training for development of tactical actions plans were not properly followed by Officers Galvez and Tabela, then prompt appropriate corrective action should be taken.
9. Review situational and positional awareness of officers when engaging in the firing of a service weapon during a static encounter. LAPD's Department Manual Section 1/556.10 requires that "[b]efore discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances." Here, the officers had Sova stopped on a sidewalk, with a defensible distance between themselves and Sova, outside of an open and populated restaurant fronted by plate glass windows. Moreover, Officer Galvez was positioned five feet behind Officer Tabela when Sova pointed the metal object at them and the officers opened fire on Sova. LAPD should develop guidance for officers to support them in developing techniques for using deadly force in a manner that minimizes the risk of harm to each other and innocent bystanders in crowded locations under these circumstances.
10. Evaluate whether the Department's policies, processes, procedures, and training related to positional awareness of officers when engaging in the firing of a service weapon during a static encounter, if determined to be sufficient, were properly executed in this case by Officers Galvez and Tabela. If it is determined that these policies, processes, procedures, and training were not properly followed by Officers Galvez and Tabela, then prompt appropriate corrective action should be taken.
11. Ensure that all personnel are familiar with and trained on the Department's policy on use of force, which reflects Penal Code section 835a in requiring that officers only use deadly force "when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life." (Department Manual Section 1/556.10 (emphasis added)).