

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



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August 5, 2013

Chief Gregory Suhr
Office of the Chief of Police
San Francisco Police Department
850 Bryant Street, Room 525
San Francisco, CA 94103

Re: Officer Involved Shooting on September 17, 2011 (Report No. 101137542)

Dear Chief Suhr:

The San Francisco District Attorney's Office has completed its review of the September 17, 2011 shooting on Broadway involving San Francisco Police Officer Ryan Jones. We have concluded that Officer Jones was acting lawfully in self-defense and defense of others when he shot at Jesus Octavio Paretas Rodriguez (Rodriguez). Our review did not examine such issues as compliance with the policies and procedures of the law enforcement agency, ways to improve training or tactics, or any issues related to civil liability; accordingly, our review should not be interpreted as expressing an opinion on these matters.

Rodriguez was charged with assault with a firearm as well as other charges as a result of this incident. As of the writing of this letter that case is still pending in the Superior Court of San Francisco. Given the pending prosecution the facts will be very briefly summarized.

On Saturday, September 17, 2011 at about 2 a.m., there were numerous people on the Broadway corridor as night clubs and restaurants were closing. There were also many police officers from Central Police Station on routine duty in the area. Uniformed SFPD Lieutenant Mike Moran saw a male later identified as Jesus Octavio Paretas Rodriguez (Rodriguez) standing with another male who was wearing a red hat. They were standing on the north sidewalk by Enrico's Restaurant at 506 Broadway. Lieutenant Moran thought Rodriguez looked like a person he had seen on a crime bulletin so he asked uniformed officers Ryan Jones and Eric Tapang to assist him in approaching Rodriguez and the other male. The officers approached Rodriguez and the male in the red hat by Enrico's Restaurant. As they approached, they saw that Rodriguez was rolling a marijuana cigarette. After a brief conversation, Lieutenant Moran told Rodriguez he was going to pat search him. Very suddenly, Rodriguez ran eastbound on Broadway on the north side of the street by the curb. Officers Jones and Tapang gave chase.

As they reached the area in front of the Priority Parking lot located on Broadway, Officer Jones saw Rodriguez reach into under his shirt and into his waistband and pull out a firearm. Rodriguez turned towards Officer Jones. Fearing Rodriguez would shoot him or Officer Tapang, Officer Jones drew his weapon, but did not yet point it at Rodriguez. Rodriguez then pointed his firearm directly at Officer Jones, who fired one round at Rodriguez. Rodriguez dropped to the ground but was not hit by the bullet.

WHITE COLLAR CRIME DIVISION

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_____ and their friends were waiting for their limousine to pick them up in front of the Priority Parking lot after exiting the Horizon Club next door, when Rodriguez stopped running, turned to face south and pointed his Tec 9 firearm at Officer Jones. _____ were behind Rodriguez when Officer Jones fired his weapon at Rodriguez, and both bystanders suffered graze / ricochet wounds from the single shot. The male with the red hat standing with Rodriguez by Enrico's Restaurant left the scene and was not identified.

California Penal Code section 835a allows an officer to use reasonable force to make an arrest, and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because of that person's resistance.

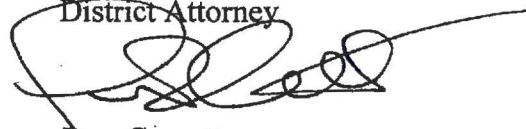
Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm. California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal.App.3d 731. In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. *CALCRIM* 3470.

The facts in the present case indicate Officer Jones drew his weapon once he saw the Tec 9 in Rodriguez's hand, and fired his weapon only and after Rodriguez pointed the Tec 9 at him. Officer Jones fired one shot at Rodriguez. It was reasonable for Officer Jones to fire at Rodriguez to protect himself, Officer Tapang and the public.

It is our conclusion that Officer Jones acted lawfully.

Sincerely,

George Gascón
District Attorney



June Cravett
Assistant Chief District Attorney

c: Lieutenant Tim Plyer
Officer Ryan Jones