

**Fatal Officer Involved Shooting of Kevin Carr
Los Angeles Police Department**

Officer Jordan Cohen, #42927

J.S.I.D. File #20-0404



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 3, 2022

MEMORANDUM

TO: CAPTAIN RICH GABALDON
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

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

SUBJECT: Fatal Officer Involved Shooting of Kevin Carr
J.S.I.D. File #20-0404
F.I.D. File #F046-20

DATE: August 3, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 14, 2020, fatal shooting of Kevin Carr by Los Angeles Police Department (LAPD) Officer Jordan Cohen. We have concluded that Officer Cohen used lawful and reasonable force in defense of another.

The District Attorney's Command Center was notified of the shooting at approximately 11:30 p.m. on October 14, 2020. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, recorded interviews, surveillance video, body-worn video, firearm analysis reports, autopsy reports, and crime scene photos and diagrams submitted by the LAPD Force Investigation Division. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On October 14, 2020, at approximately 9:50 p.m., LAPD Officers Cohen and Ashley Afremow were conducting extra patrol together due to increased gang violence in the area of Figueroa and 111th Streets in Los Angeles. They were uniformed and wearing body-worn video (BWV)¹ and drove a marked police vehicle equipped with a digital in-car video system (DICVS).² Cohen was the driver, and Afremow sat in the front passenger seat.

¹ Both officers activated their BWV after the incident. However, because their cameras employ a buffer period that records video without audio for two minutes prior to activation, portions of the incident were captured on video without audio.

² Afremow stated that she had activated the DICVS, but investigators determined that the system had malfunctioned and failed to record any video.

As they drove south past the intersection of Figueroa and 111th Streets, Afremow saw a group of people standing near two parked cars at a 76 gas station located on the northwest corner of the intersection. In light of the increased gang activity in the neighborhood, Afremow asked Cohen to make a U-turn so they could get a closer look at the group. Cohen turned the car around at 111th Place and drove north on Figueroa Street toward the gas station parking lot.

The group Afremow had seen included four individuals: [REDACTED], and [REDACTED], who were gathered around a black BMW and a white Hyundai. According to [REDACTED], he and [REDACTED] had pulled into the gas station and unexpectedly ran into his friend, [REDACTED], who was with his girlfriend, [REDACTED]. [REDACTED] and [REDACTED] decided to back into the parking stalls to hang out and smoke marijuana.

[REDACTED] spotted the patrol car's brake lights turn on and informed the group that the officers were likely circling back to the station. The four returned to their cars and were seated as follows: [REDACTED] was in the driver seat of the Hyundai with [REDACTED] in the passenger seat, and [REDACTED] was in the driver seat of the BMW with [REDACTED] in the passenger seat.

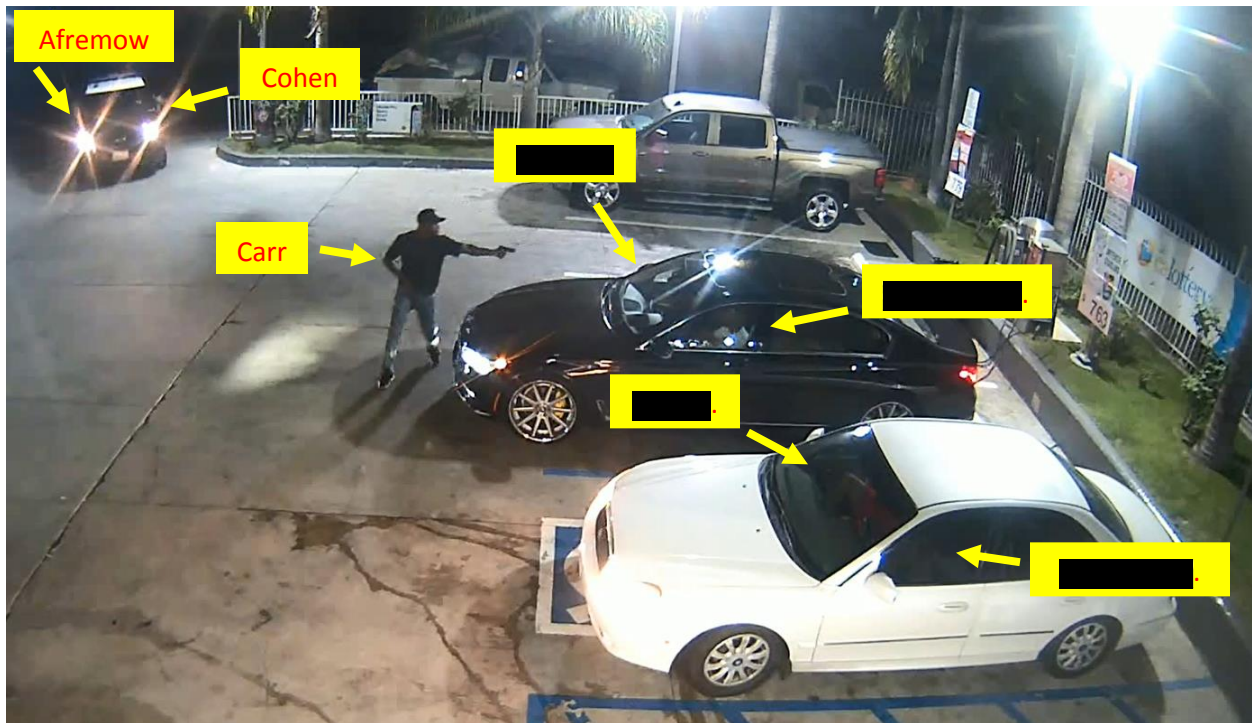


Fig. 1 – Surveillance still capturing the near-simultaneous arrival of Carr and the officers.

At the same time, unbeknownst to them, a man, later identified as Kevin Carr, jumped over a fence on the southwest side of the gas station parking lot. Surveillance video captured Carr walking around the rear of a brown Chevrolet pickup truck parked in the first parking space closest to 111th Street, then quickly moving across the parking lot to the front of the BMW.³

³ The relevant video was recorded at 15 frames per second and was motion activated. Therefore, portions of the video—including the approximate time when Cohen fired his service weapon—appear to skip.

As Carr approached the BMW, he raised his left arm toward the car's windshield. In his hand was a black handgun. As he reached the front of the car, he appeared to draw the gun closer to his body and place both hands on it, with the gun pointed downward. He appeared to grab the top portion of the gun with his right hand while walking toward the driver's side of the BMW. Carr stood between the two vehicles. At that point, [REDACTED] began to open the driver's side door of the BMW but remained seated in the vehicle. Carr then pointed the gun in [REDACTED]'s direction.

All four individuals in the cars stated that they looked up and saw Carr pointing a gun in their direction. Each described a brief moment between when they spotted the police vehicle and when Carr suddenly and wordlessly appeared. Each said Carr pointed the weapon at various members of the group without speaking and as if ready to shoot.

Each of the four individuals said it appeared that the gun had jammed, and they saw Carr manipulating the gun's slide as if to clear the jam. [REDACTED] and [REDACTED] said it appeared that Carr's finger was on the trigger, but the gun was not firing. All four believed they would have been shot if officers had not arrived at the gas station moments after Carr appeared.

As Cohen and Afremow arrived at the 76 gas station, Afremow stated that she saw Carr walking aggressively toward the two parked cars. Afremow described seeing him draw a gun from his waistband and point it at the occupants of the BMW. She saw Carr's finger on the trigger and saw him "mash" the gun, which she described as a downward movement commonly made by individuals who overcompensate in anticipation of an impending recoil. She did not call out to her partner that she had seen a man with a gun because she believed Cohen must have witnessed the same thing she did. She could see inside the BMW and said that the two people inside appeared to be in fear for their lives.

Both Cohen and Afremow exited their vehicles. According to [REDACTED] and [REDACTED], Afremow and Cohen both repeatedly ordered Carr to drop the gun.⁴ Afremow stated that she only ordered Carr to drop his gun one time.⁵ [REDACTED] said he heard the officers order Carr to drop the gun before he saw Carr turn toward the officers with the gun in hand. All four individuals described seeing Carr continue to try to manipulate his pistol's slide or cock the gun after officers ordered him to drop the gun. Surveillance video captured Carr beginning to turn his face toward the officers after they exit the patrol car.

⁴ Because both Cohen and Afremow's BWV were buffering during the incident, neither video contains audio at the moment the officers arrive on scene. Accordingly, neither BWV captures the officers' initial commands.

⁵ [REDACTED] stated that she mostly heard Cohen issue commands, and that she heard him repeatedly tell Carr to get on the ground.



Fig. 2 – Surveillance still capturing Carr aiming at [REDACTED], while turning his face toward Cohen and Afremow.

Cohen’s BWV depicts him aiming his pistol toward Carr and firing his duty weapon in a northwesterly direction within moments of arriving on scene.⁶ According to Afremow, at the moment she heard gunshots, Carr had just glanced over at the officers but was continuing to aim his gun at the driver of the BMW, with Carr’s finger continuing to remain on the trigger in a downward motion as if attempting to shoot. Cohen fired a total of four rounds at Carr.⁷ All four rounds were fired in approximately one second from an approximate distance of 32 feet. Afremow stated that she did not fire her duty weapon during the incident because when she first observed Carr, she was standing at an angle from which she could not safely shoot without risking injury to the individuals in the cars.⁸ By the time she could safely change her position, she had determined that Carr was no longer a threat.

Following the fourth round fired by Cohen, Carr stumbled and moved between the two vehicles. [REDACTED] stated that even after Carr appeared to be hit by a round, he continued to try to cock the gun and shoot [REDACTED]. Surveillance video captured Carr falling to the ground behind the BMW. Afremow broadcast “Shots fired!” over her radio and requested additional assistance at approximately 9:51 p.m. Cohen moved closer to Carr and the two cars. His BWV captured Carr

⁶ Due to Cohen’s position as he exited the patrol vehicle, his BWV is partially blocked by the vehicle’s door frame, causing the view of Carr’s movements to be obscured.

⁷ Investigators took possession of and examined Cohen’s duty weapon, a Smith & Wesson 9mm Model M&P9 semiautomatic pistol. The pistol had an attached tactical light and, when fully loaded, contained 17 rounds in the magazine and one round in the chamber. After the incident, Cohen’s duty weapon was found to contain 13 rounds in the magazine and one round in the chamber.

⁸ Afremow unholstered her service pistol but did not fire it. She stated that she unholstered her pistol as soon as she exited the patrol vehicle, but a review of her BWV appears to show that she did not unholster her pistol until after the incident.

lying on the ground on his right side at the rear of the BMW, with a firearm on the ground approximately one foot from his left hand.⁹



Fig. 3 – Carr’s gun.

The gun, a Smith and Wesson M&P .40 caliber semiautomatic pistol, had no rounds in the chamber and eight live cartridges in the magazine.¹⁰ It was found on its right side, with a magazine that was inserted but not fully seated or locked, and was not equipped with a safety.¹¹ The gun was not registered to Carr and had been reported stolen in Las Vegas in 2014. The investigation determined that Carr did not discharge the handgun during the incident.

According to his BWV, Cohen ordered Carr not to reach for the weapon and ordered the individuals in the cars to move away from the scene. Afremow called for medical aid and back-up. Officers formed an arrest team to take Carr into custody. At approximately 9:54 p.m., the team approached Carr, who was lying motionless on his right side behind the BMW. He was pulled away from the gun, handcuffed, and searched. By this point, Carr was unresponsive.

Officers did not immediately render medical aid and instead waited for paramedics to arrive. Officers who were interviewed stated that they did not feel they had adequate medical training to perform chest compressions on an individual with an open chest wound, which Carr had. Within minutes, Los Angeles Fire Department responded to the location. At 10:02 p.m., paramedics determined that Carr was deceased.

An autopsy was performed on October 22, 2020 by Los Angeles County Deputy Medical Examiner Lawrence Nguyen. Dr. Nguyen determined the cause of death to be a single gunshot wound to the chest. Toxicology results indicated the presence of alcohol, marijuana and methamphetamine in Carr’s blood.

⁹ The pistol was examined, test fired, and determined to be functional.

¹⁰ The eight cartridges consisted of three .40 caliber cartridges and five .357 caliber cartridges.

¹¹ A criminalist who examined and test fired the pistol found that, when the magazine was fully seated, the pistol cycled both .40 S&W caliber and .357 SIG caliber cartridges. When the magazine was not fully seated, however, the pistol would not chamber a cartridge of either caliber from the magazine.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) Cal. 4th 987, 994 (*overruled on another ground in People v. Chun* (2009) 45 Cal. 4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal. 4th 1073, 1082; *see also* CALCRIM No. 505.

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code §§ 835a(c)(1)(A) and (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 position 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 another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code § 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, is taken into consideration. Penal Code §§ 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code § 835a(a)(4).

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396–97.

The evidence examined in this investigation shows that officers arrived at the 76 gas station at 111th and Figueroa Streets just as Carr was walking toward two parked cars containing four individuals. At that moment, Carr was drawing a gun from his waistband and pointing it at the cars' occupants. All four of the individuals saw Carr repeatedly attempting to cock his weapon, and they believed he was trying to shoot them but could not because the gun was jammed.

Cohen and Afremow ordered Carr to drop his weapon, but according to the witnesses and surveillance video, Carr turned his face toward the officers while maintaining his grip on the weapon, which he had aimed at [REDACTED]. Facing a deadly threat and reasonably in fear for the lives of others, Cohen fired four rounds at Carr. One round hit Carr, ultimately causing his death. Cohen's decision to use deadly force to stop the deadly threat posed by Carr was reasonable under the circumstances.

CONCLUSION

We conclude that Officer Jordan Cohen used lawful and reasonable force in defense of another.