

**Fatal Officer Involved Shooting of Jorge Cerdá
Los Angeles Police Department**

Officer Steve Hernandez, #34927

J.S.I.D. File #21-0105



**GEORGE GASCÓN
District Attorney
Justice System Integrity Division
December 20, 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 Jorge Cerdá
J.S.I.D. File #21-0105
F.I.D. File #F013-21

DATE: December 20, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 16, 2021, fatal shooting of Jorge Cerdá by Los Angeles Police Department (LAPD) Officer Steve Hernandez. We have concluded that Hernandez acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on March 16, 2021, at 5:58 p.m. The District Attorney Response Team responded to the location and was given a briefing and walk-through of the scene.

The following analysis is based on investigative reports, firearm analysis reports, a gunshot residue analysis report, 9-1-1 recordings, audio recordings of interviews, crime scene diagrams, body worn video evidence, photographic evidence, and witness statements submitted to this office by LAPD Force Investigation Division (FID) Detective Heather Amy. Hernandez' compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On March 16, 2021, at 12:04 p.m., [REDACTED] called 9-1-1 and reported that she was "afraid" because her nephew, Jorge Cerdá, was in the backyard of her home (primary residence) in Los Angeles "drugged up" and armed with a BB gun. Shortly thereafter, [REDACTED] called 9-1-1 and reported that his family was in the backhouse of the primary residence (backhouse), and a man was outside shooting a gun in the air.¹ Multiple LAPD units responded to the location.²

Upon arrival at the location, officers met with [REDACTED] and [REDACTED], and while speaking with them, Cerdá's sister, [REDACTED], exited the primary residence. [REDACTED] told the officers her

¹ [REDACTED] was not inside the residence when he called, he had been given this information by family members. The primary residence and backhouse are on the same lot.

² All responding officers wore distinctive LAPD uniforms.

brother was on drugs and armed with a BB gun. Upon further questioning, [REDACTED] said she was unsure if the gun was a BB gun or a shotgun.

After additional officers and a sergeant arrived at the scene, [REDACTED] called Cerda on his cellphone. [REDACTED] pleaded with Cerda to exit the residence and speak with the police. At one point, [REDACTED] gave her phone to Officer Melissa Saenz and Sergeant Adrian Koval to speak with Cerda. According to Saenz, Cerda told him he did not like "cops" and guessed he was "going to die today." When Saenz asked him to come out of the primary residence, Cerda replied, "No. Come in and get me. I'm ready to shoot it out." Following these comments, Koval established a command post, requested additional units, and began establishing a perimeter around the primary residence.

During a second phone conversation with Koval, Cerda again refused to exit the primary residence and threatened to shoot officers if they entered the house. According to Koval, Cerda seemed angry, agitated, and under the influence of narcotics. Officers attempted to use a police vehicle's public address system (PA) to get Cerda to exit the house unarmed, including having Cerda's aunt plead with him. Still, Cerda refused to come out of the house and yelled at the officers.³

LAPD considered Cerda a barricaded suspect, and at approximately 1:50 p.m., LAPD Metropolitan Division Special Weapons and Tactics (SWAT) personnel and equipment began arriving at the location.⁴ SWAT officers replaced patrol officers and established containment of the primary residence, which included the use of multiple LAPD armored vehicles. Some SWAT officers were equipped with "5230 Baffled gas" and a 12-gauge shotgun gas launcher.⁵

A Crisis Negotiation Team (CNT) also responded to the location.⁶ CNT members interviewed Cerda's family members and discovered Cerda was a chronic methamphetamine user and was currently on a two-day methamphetamine binge. According to [REDACTED], Cerda would become violent and unable to communicate when he was upset. At one point, one of Cerda's relatives was speaking with him on the phone. When a CNT member got on the phone and advised Cerda he was with the police, Cerda yelled and screamed before hanging up the phone. Further efforts to contact Cerda on the phone were unsuccessful.

At 3:15 p.m., SWAT officers successfully extracted the occupants of the backhouse.⁷ SWAT Officers Steve Hernandez and Mario Rios took positions in the second-story apartment of the backhouse to provide coverage of the primary residence's backyard. SWAT Officers Andrew Rea and Rodney Williams were positioned to the rear of property to the west of the primary residence (west neighbor). Rea was responsible for the gas deployment, while Williams was responsible for covering Rea.⁸

³ Many of Cerda's statements were unintelligible; however, at one point, he responded, "Come and get me, here I am!"

⁴ SWAT personnel deployed to contain the primary residence wore dark blue utility uniforms, tactical vests, gas masks, and ballistic helmets. Unless otherwise noted, each officer was armed with an LAPD-approved rifle and handgun and was equipped with body worn video (BWV). The events were captured on various officers' BWV.

⁵ 5230 Baffled gas is a pyrotechnic launchable canister containing Chlorobenzyl Dene Malononitrile (CS) gas. The canister is launched with a Remington 870, 12-gauge shotgun equipped with a launching cup.

⁶ The CNT consisted of a detective, two SWAT officers, and a psychologist.

⁷ All times referenced hereafter were obtained from BWV timestamps.

⁸ Rea and Williams were equipped with a 40-mm less-lethal launcher containing oleoresin capsicum and CS gas canisters, 5230 Baffled gas, and a 12-gauge shotgun launcher.



Figure 1 – Stock satellite image depicting the location of the incident. The approximate containment locations of Rea (R), Williams (W), Hernandez (H), and Rios (M) are labeled in blue. The approximate location of the primary residence's kitchen window (KW) and rear door (RD) are marked in black.

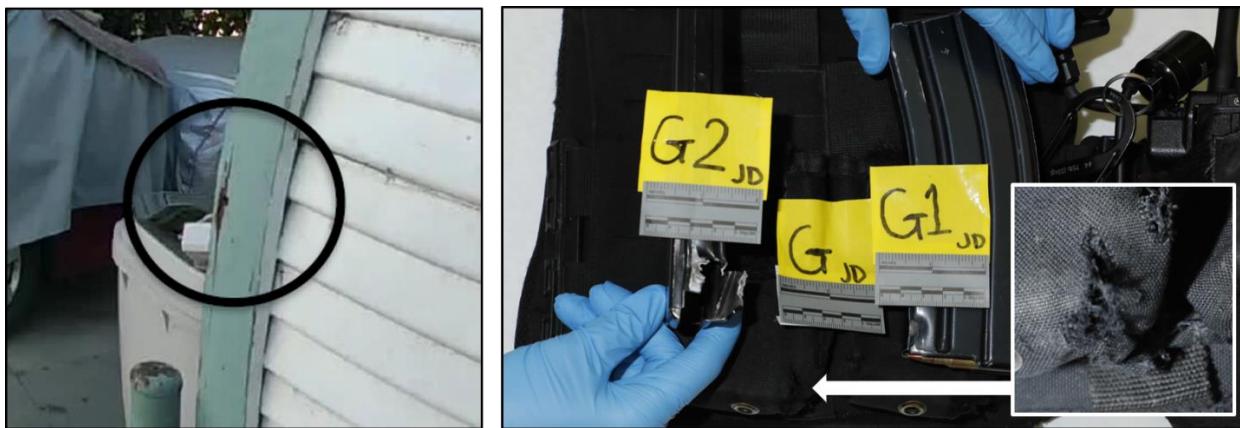


Figure 2 – Still image taken from Williams' BWV depicting his position and vantage point during the incident.

Further attempts to persuade Cerda to exit the primary residence were unsuccessful, including the playing of recorded messages of Cerda's family members pleading for him to come out. At 4:25 p.m., use of force and K-9 warnings were issued over the PA, and Cerda did not exit or respond. At 4:37 p.m., an approved "gas plan" was commenced.

Rea and Williams walked south on the west neighbor's driveway, and Rea fired one 5230 Baffled gas canister through the kitchen window located on the west side of the primary residence. Gas began emanating from the kitchen window, and according to Williams, he heard Cerda gasping for air and coughing but could not see him. As Rea and Williams returned to their position at the rear of the west neighbor's home, other SWAT officers fired gas canisters through other windows of the primary residence. At 4:38:16 p.m., Cerda fired a round from inside the primary residence.⁹

At 4:40:00 p.m., Cerda fired one round from a 9mm handgun that perforated the corner molding of the west neighbor's house that Williams was taking cover behind and impacted multiple rifle magazines in Williams' tactical vest.¹⁰ Williams stumbled backward but remained on his feet. Rea radioed to the other officers that Williams had been struck by gunfire in his vest but was not injured.



Figures 3 & 4 – Photographs depicting the perforation to the west neighbor's exterior molding and the bullet hole (insert) in Williams' ballistic vest. G1 and G2 are the magazines the bullet impacted.

Williams maintained his position and ordered Cerda to come out with his hands up. Cerda replied, "Fuck you," and fired a shotgun round at Williams that missed. According to Williams, he heard a "racking" sound that led him to believe the round was fired from a shotgun.¹¹

SWAT officers were told to deploy a second round of gas into the primary residence. As other officers fired canisters of gas into other areas of the home, Rea discharged another canister through a bay window just south of the kitchen window. Williams and Rea then maintained their positions behind the rear of the west neighbor's home. According to Williams, he saw the black iron rear door of the primary residence open. To make himself "smaller," Williams placed one knee on the ground and assumed a kneeling position while pointing his rifle toward the rear door. At 4:41:31 p.m., Cerda fired one round from his 9mm handgun. The round penetrated Williams' gas mask, entered his cheek, and caused a horizontal laceration before exiting the back of his neck above the hair-line. Williams immediately fell backward to the ground, and Rea

⁹ The gunshot can be heard on BWV. The location of the discharge and the direction the bullet traveled is unknown.

¹⁰ Cerda cannot be seen on BWV, but the gunshot can be heard. The bullet was later recovered from within the vest's pouch. Ballistics evidence indicated Cerda struck Williams with a 9mm round fired through the kitchen window.

¹¹ The gunshot can be heard on BWV; however, Cerda cannot be seen. Ballistics evidence indicated Cerda fired a shotgun slug round through the kitchen window toward Williams.

broadcasted, “Rodney’s down! Officer down! Officer down! Rodney’s down!” Rea grabbed Williams’ vest and began dragging him west, away from the rear corner of the west neighbor’s residence.



Figure 5 – Photograph depicting the bullet hole on the left side of Williams’ gas mask

Immediately following the announcement that Williams was down, Officers Nicholas Cho and Melvin Durant began firing additional gas rounds into the primary residence. Approximately fifteen seconds after Williams was shot, Cerda walked north from the rear door of the primary residence into the back-patio area below Hernandez’ position in the backhouse. Cerda held a shotgun in his hands and had a handgun in his right front pocket.¹² Hernandez fired five rounds from his department-issued rifle at Cerda, striking Cerda three times. Cerda fell onto his back and on top of his shotgun before rolling onto his stomach.



Figure 6 – Still image from Hernandez’ BWV depicting Cerda lying on his stomach near his shotgun seconds after Hernandez discharged his rifle.

¹² Cerda’s actions at this point are based on circumstantial evidence, as Hernandez’ arms and rifle were blocking his BWV’s view of Cerda.

Shortly thereafter, SWAT officers approached Cerda. Officer Gregory Martin moved the shotgun away from Cerda, and other officers handcuffed him. Martin was alerted to a handgun protruding from Cerda's front right pocket and removed it. Los Angeles Fire Department (LAFD) firefighter-paramedics responded to the scene to treat Williams and Cerda. Williams was transported to California Hospital Medical Center, where he was treated for a gunshot wound to the face. At 5:00 p.m., LAFD Firefighter-Paramedic Jason Jasgur pronounced Cerda dead at the scene.

Ballistics Evidence

A pump-action 12-gauge, KEL-TEC, model KSG shotgun was recovered next to Cerda.¹³ The shotgun had two tube magazines. One tube was loaded with two slug shotshells and two 12-gauge shotshells. The second tube was loaded with three mini-slug shotshells and three 12-gauge shotshells. A 9mm Luger caliber, Polymer 80, model PF940C semiautomatic handgun was recovered from Cerda's right front pocket.¹⁴ The handgun was recovered with five rounds in the magazine, and one jammed discharged cartridge case in the chamber.¹⁵



Figures 7 & 8 – Photographs depicting the two firearms recovered from Cerda.

Two discharged shotshells fired from Cerda's shotgun were recovered inside the kitchen of the primary residence. One fired shotgun slug was recovered from the rear yard of the west neighbor's home, and a fired bullet was recovered from the front right pocket of Williams' tactical vest. The bullet recovered from Williams' vest was examined and determined to be "consistent with a bullet from ammunition designated 9mm Luger and exhibit[ed] general rifling characteristics consistent with [Cerda's] pistol." Five cartridge cases discharged from Hernandez' rifle and headstamped with the NATO symbol and "LC 16" were recovered on the ground near the front entrance to the backhouse.

Investigators located two bullet holes in the kitchen window of the primary residence.

¹³ The shotgun had been reported stolen in 2019.

¹⁴ Polymer80 firearms are sold online. The handguns are sold no more than 80% complete, thereby avoiding federal firearms regulations. Consumers can purchase lower receivers and the other materials needed to build and complete the firearm assembly at home. Polymer80 lower receivers and handgun frames lack serial numbers for identification and are often referred to as "ghost guns."

¹⁵ The discarded cartridge casings from Cerda's other two handgun discharges were not located.



Figure 9 – Photograph depicting the kitchen window and rear door of the primary residence. Two bullet holes are labeled A and B.

Bullet hole “A” was consistent with a shotgun slug. Corresponding shotgun slug holes were located in a trashcan and shed near where Williams and Rea were positioned. Pathway analysis determined that the bullet that created hole “B” impacted the exterior northeast corner of the west neighbor’s home. This path is consistent with the shot that impacted Williams’ tactical vest.

Gunshot residue (GSR) samples were collected from Cerda on March 17, 2021. Senior Criminalist Melvina Gin completed the GSR analysis on August 13, 2021. Particles characteristic and consistent with GSR were located on Cerda’s left and right hands. Gin concluded, “The finding of characteristic particles indicates that [Cerda] may have discharged a firearm, been in the vicinity of a discharged firearm, or touched a surface with gunshot residue on it.”

Autopsy

An autopsy was performed on March 28, 2021, by Senior Deputy Medical Examiner Raffi Sarkis Djabourian. The cause of death was determined to be a perforating gunshot wound to the torso. In addition to the fatal wound, there were two additional gunshot wounds, one to the left abdomen and one to the left hip. Toxicology results indicated the presence of marijuana, amphetamine, and methamphetamine in Cerda’s blood at the time of the incident.

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 section 197;

People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505.

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 section 835a(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 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 section 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, are taken into consideration. Penal Code section 835a(a)(4) & (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 section 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, 396-397.

In this case, LAPD officers responded to the location after Cerda, who was under the influence of narcotics, discharged a firearm in the backyard of a residence. When police arrived, Cerda barricaded himself in the house and refused to come out despite repeated efforts by LAPD and Cerda's family members. After a lengthy standoff, LAPD SWAT officers discharged gas into the home to force Cerda to exit. Cerda responded by shooting Williams, striking him in his tactical vest. Cerda was again ordered to exit the residence and given an opportunity to surrender to the police. Cerda fired another round at Williams, which struck him in the face.

LAPD's repeated attempts to de-escalate the situation were unsuccessful. Cerda's prior actions demonstrated that he had the present ability and intent to kill LAPD officers at the location.

When Cerda exited the residence carrying a loaded shotgun, with a second loaded firearm in his right front pocket, it was reasonable for Hernandez to fear for his life and the life of the other officers at the location. As such, it was reasonable and necessary for Hernandez to use deadly force on Cerda.

CONCLUSION

We find that Officer Steve Hernandez acted lawfully in self-defense and defense of others when he used deadly force against Jorge Cerda.