

**Non-Fatal Officer Involved Shooting of Brandon Russell
Mayhand**

Los Angeles Police Department

Officer Pavel Gomez, #31659

J.S.I.D. File #21-0329



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

December 28, 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: Non-Fatal Officer Involved Shooting of Brandon Russell Mayhand
J.S.I.D. File #21-0329
L.A.P.D. File #F046-21

DATE: December 28, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 13, 2021, non-fatal shooting of Brandon Russell Mayhand by Los Angeles Police Department (LAPD) Officer Pavel Gomez. We have concluded that Officer Gomez acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on August 13, 2021, at 12:19 p.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by LAPD Lieutenant Damien Gutierrez.

The following analysis is based on investigative reports, audio recordings of witness interviews, photographs, radio traffic, Body Worn Video (BWV), Digital In-Car Video System (DICVS) video, and surveillance video submitted to this office by LAPD Detectives Heather Gahry, Douglas Johnson, and John Macchiarella.

Officer Gomez's compelled statement was not reviewed. The compelled statements of other officers at the scene who did not discharge their firearms were reviewed and considered in this analysis.

FACTUAL ANALYSIS

The 9-1-1 Call

On August 13, 2021, at 10:39 a.m., Brandon Russell Mayhand called 9-1-1 and reported he was armed with a knife, wanted to harm himself, and his grandmother was present in his residence.

The Radio Call

LAPD broadcast, “Harbor units and 5A15, 5A15, attempt suicide, [REDACTED] North Wilmington Boulevard, [REDACTED] North Wilmington Boulevard, subject has a knife in hand. Standby for further. Code three incident 1644, RD 0515.”

LAPD Response

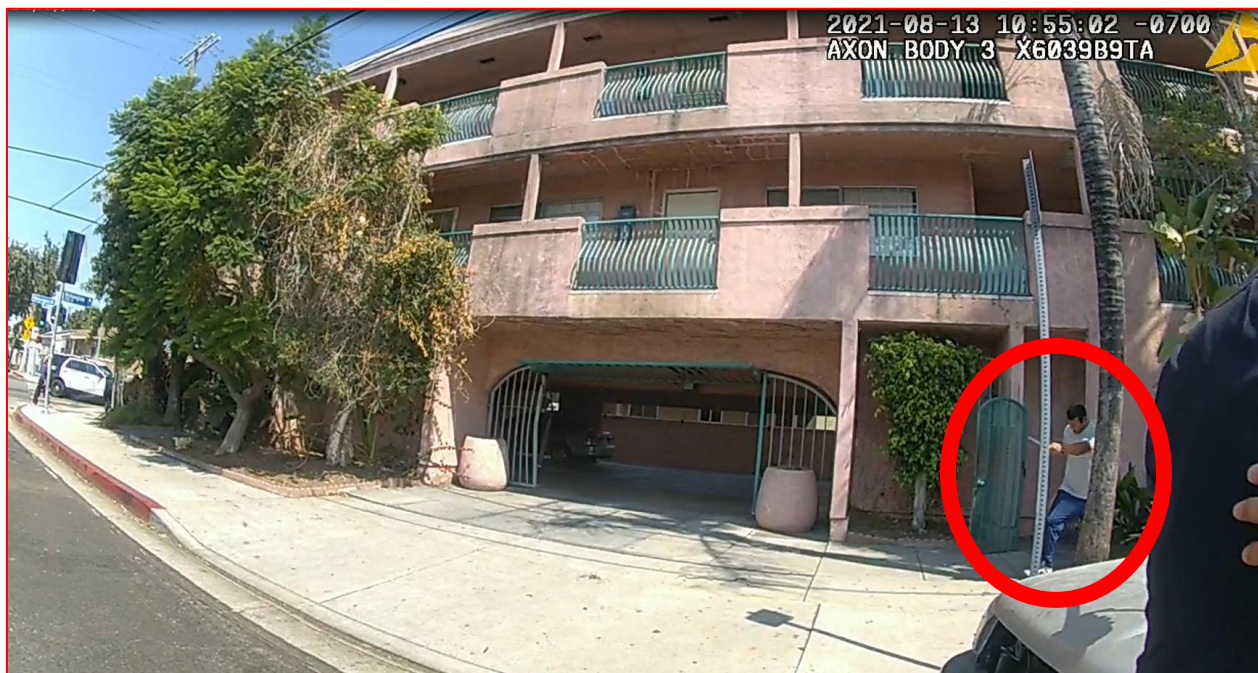
LAPD Officer Pavel Gomez and his partner, Officer Antonio Mayoral, who were in uniform and driving a marked patrol vehicle, responded to the call along with other uniformed officers and a supervisor. When the officers arrived, they encountered Mayhand, who was armed with a kitchen knife and pacing back-and-forth on the second level of an apartment complex.

Gomez drew his .45 caliber semiautomatic service weapon, Mayoral deployed a 40mm Less Lethal Launcher (LLL) and a Taser, and Officer Ramon Gracia deployed a Beanbag shotgun. Officer Matthew Lavelle also drew his service weapon.

The officers issued numerous orders to Mayhand to put the knife down. Mayhand did not comply and still armed with a knife, walked down a staircase leading to the street level where the officers were deployed.

Body Worn Video (BWV)

The incident was recorded on BWV. Video of Mayhand emerging from the stairwell and wielding a knife is shown below:



Less Lethal Weapon Deployment

When Mayhand exited the stairwell and moved toward the officers, Gracia fired four rounds from his beanbag shotgun, at least one of which appeared to strike Mayhand, but did not cause Mayhand to drop the knife.

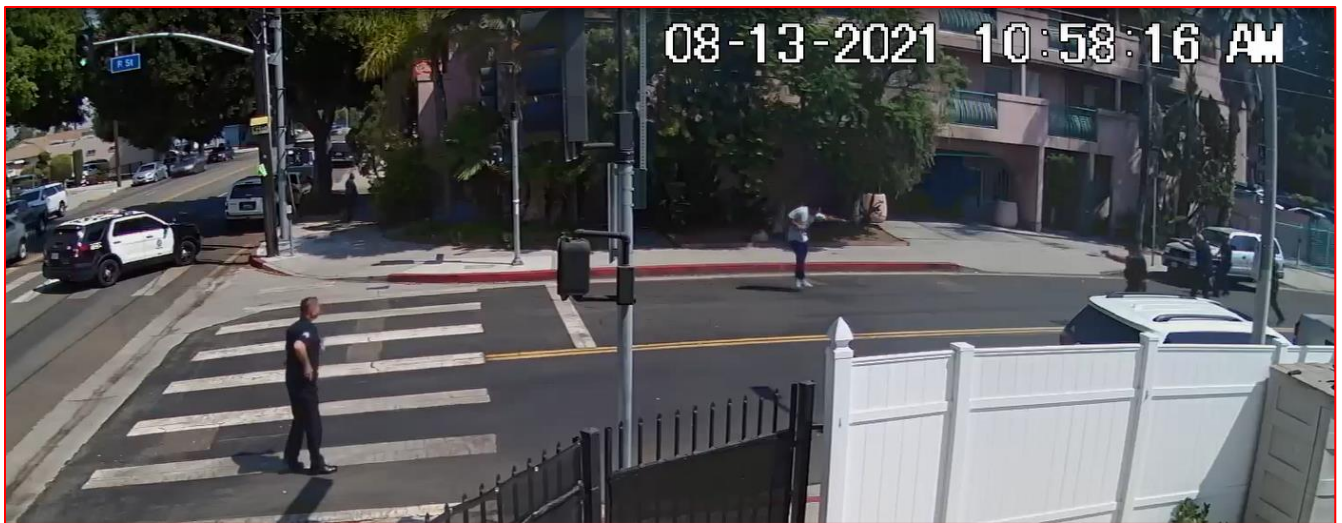
Mayoral fired a round from his 40mm Less Lethal Launcher at Mayhand, which struck him but was also ineffective.

The Shooting

When Mayhand moved toward Gomez, and in the direction of three other officers, and while still wielding the knife, Gomez fired one round from his service weapon, striking Mayhand in the hip. Mayhand fell to the ground with the knife near his hand. When he did not comply with orders to not move and not to reach for the knife, Mayoral discharged his Taser at Mayhand, which was effective in allowing Gomez to approach Mayhand and kick the knife out of Mayhand's reach. Gomez's BWV showing Mayhand moving toward Gomez with the knife in his hand the moment of the shooting, is shown below:



The shooting was also recorded on surveillance video from a nearby residence. That video showing Mayhand approaching Gomez, Mayoral, Lavelle, and Gracia with a knife is shown below:



The Knife

Mayhand was armed with a kitchen knife, as shown in the photo below:



Injuries

Mayhand was treated at the hospital for a gunshot wound to the hip and bruising/abrasions apparently caused by bean bag and/or a 40mm LLL round, and Taser darts to the right side of his

body. Mayhand also had cuts on his right forearm caused when he intentionally cut himself. Mayhand told hospital staff that he wanted to kill himself, but he wanted the police to do it.

Firearm and Less Lethal Weapon Evidence

One .45 caliber round was located at the scene, along with four beanbag discharged shotshells, four beanbags, one 40mm LLL round, and three Taser wires.

Brandon Russell Mayhand's Statement

Mayhand waived his *Miranda* rights and told investigators he was having issues in his life and mental breakdowns and was diagnosed when he was in prison with schizophrenia.

Mayhand stated that, before the shooting, he had stopped taking his medication because he did not like the way the medication made him feel.

On the day of the shooting, Mayhand stated he tried to commit suicide by drinking bleach and consuming Tylenol and diet pills. He was hearing voices and was "ready to die." He stated he went outside with a knife and attacked the officers and did not comply with their commands. Mayhand stated he did not intend to hurt the officers, but he wanted the police to kill him, as he had tried on a prior occasion. He said he ran at the officers with the knife and that is when he was shot.

Mayhand has been charged with assault on a peace officer in case number NA117833. Proceedings have been suspended in that case pending a Penal Code section 1368 mental health evaluation.

Officer Antonio Mayoral's Statement

Mayoral provided a compelled statement to investigators.

Mayoral stated he responded to the call with his partner, Officer Gomez. He saw Mayhand with a knife and he was not complying with Officer Gracia's commands to drop the knife. Gracia fired beanbag rounds at Mayhand. When Mayhand moved toward Gomez with the knife, Mayoral fired a 40mm LLL round at him. Gomez then fired one round at Mayhand, who went to the ground with the knife near his hand. Mayoral stated he then tased Mayhand because his hand was still near the knife and presented a threat to the officers' safety.

Officer Ramon Gracia's Statement

Gracia provided a compelled statement to investigators.

Gracia stated he responded to the call with his partner, Officer Lavelle. Gracia saw Mayhand armed with a knife, so he deployed his bean bag shotgun and gave numerous commands to Mayhand to drop the knife. Mayhand did not comply and moved toward the officers with a knife, so Gracia fired bean bag rounds at Mayhand, which were ineffective. He heard a gunshot and Mayhand went to the ground. Gracia assisted in taking Mayhand into custody.

Officer Matthew Lavelle's Statement

Lavelle provided a compelled statement to investigators.

Lavelle responded to the call with his partner, Officer Gracia. He stated he saw Mayhand with a knife, so he drew his service weapon. Mayhand did not comply with repeated commands to drop the knife. When Mayhand moved toward the officers, Gracia fired bean bag rounds at him, which were ineffective. Mayoral fired a 40mm LLC round at Mayhand, which was also ineffective. When Mayhand had the knife in his hand and advanced toward Gomez, Gomez fired a round from his service weapon. Mayhand went to the ground and was taken into custody.

Officer Pavel Gomez's Statement

Gomez provided a compelled statement to investigators, which was not reviewed as part of this evaluation.

LEGAL ANALYSIS

The Law

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) 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 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) 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 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. "What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure." *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th at 342 (quoting *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347).

Analysis

The evidence presented in this case shows that Mayhand, who had been previously diagnosed with schizophrenia, was not taking his medication. He had previously tried to commit suicide by attempting to make officers shoot him. Mayhand was again attempting suicide by consuming bleach and Tylenol and vitamin pills, and then engaging the officers with a knife to cause the officers to shoot him. Mayhand armed himself with a knife, pointed it toward the officers, and did not comply with their numerous commands to disarm. The officers' efforts to de-escalate the situation by attempting to converse with Mayhand and encouraging him to drop the knife were ineffective. When Mayhand approached the officers with knife, Gracia fired four rounds from his bean bag shotgun at Mayhand, but those were ineffective. As Mayhand quickly approached Gomez with the knife in his hand, Mayoral fired a 40mm LLL round at Mayhand and Gomez fired one round from his service weapon, striking and injuring Mayhand.

Based on the totality of the circumstances, Mayhand's actions of arming himself with a knife, not complying with the officers' orders to disarm, and then approaching Gomez quickly with the knife in his hand, would be reasonably interpreted by any reasonable officer or trier of fact as presenting a deadly threat.

CONCLUSION

The evidence presented supports the conclusion that Gomez's use of deadly force was reasonable and necessary to defend himself, and the other officers, against Mayhand's armed attack. We find that Officer Gomez acted lawfully in self-defense and in defense of others when he used deadly force against Brandon Russell Mayhand.