

**Officer Involved Shooting of Kerry Wesson
Los Angeles County Sheriff's Department**

**Deputy Arturo Spencer, #444969
Deputy Mark Schultz, #292869
Deputy Ricardo Munoz, #455180**

J.S.I.D. File #14-0562



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 1, 2016

MEMORANDUM

TO: CAPTAIN STEVEN KATZ
Homicide Bureau
Los Angeles County Sheriff's Department
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Kerry Wesson
J.S.I.D. File #14-0562
L.A.S.D. File #014-13309-2116-013

DATE: August 1, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 26, 2014, fatal shooting of Kerry Wesson by Los Angeles County Sheriff Deputies Arturo Spencer, Mark Schultz and Ricardo Munoz. It is our conclusion that the deputies acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on August 26, 2014, at approximately 5:05 p.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Detectives Eddie Brown and Antoinette Martinez, LASD, Homicide Bureau. The deputies provided voluntary statements which were considered as part of this analysis.

FACTUAL ANALYSIS

On August 26, 2014, at approximately 1:00 p.m., LASD Century Station Detectives Arturo Spencer and Omar Miranda were conducting a follow up investigation at 12234 Santa Fe Avenue in the City of Lynwood. The two deputies were there to speak to the victim of the investigation. Spencer was wearing a LASD uniform with a green ballistic vest over his shirt. The vest was marked "SHERIFF" in yellow across the back and had smaller LASD markings on the front. Miranda was wearing civilian clothing with a similar ballistic vest over his shirt.

12230 and 12234 Santa Fe Avenue are single story apartment buildings located on the same property and enclosed by a wrought iron fence and a locked security gate. 12230 Santa Fe Avenue is located on the north side of the property and 12234 Santa Fe Avenue is on the south side. The two buildings are separated by a courtyard with a strip of grass running down its

length. The apartment units open up onto the courtyard and have narrow cement walkways running in front of them.

A resident opened the security gate allowing Spencer and Miranda onto the property. Spencer spoke briefly with the victim on his case while standing outside the apartment's front door.¹ Spencer turned to walk back to his vehicle after completing his conversation with the victim. At that moment, Spencer heard gunshots coming from behind him. One round missed his protective vest and struck him in the rear shoulder. Spencer immediately turned around and saw a male, later identified as Kerry Wesson, standing in the doorway of 12230 Santa Fe Avenue, Unit C, on the north side of the property.

Wesson was holding a black semiautomatic firearm in both hands, pointed directly at Spencer. As Wesson continued to fire, Spencer went to the ground to get out of the line of fire. Spencer looked back and saw Wesson advancing on him. Believing that Wesson was about to kill him, Spencer drew his service weapon and fired several rounds at Wesson. Wesson retreated back into his apartment. Spencer ran out of the security gate and took cover behind cars parked on the street.

Miranda had walked out of the security gate ahead of Spencer when he heard the sound of what he believed to be firecrackers. Miranda turned around and saw Wesson standing in the threshold of his apartment firing a black semiautomatic firearm toward Spencer and himself. Spencer was on the ground and firing his service weapon at Wesson. Miranda was unable to return fire because Spencer was in his line of fire. Wesson fired more rounds in their direction then retreated back inside his apartment.²

As Spencer and Miranda took positions of cover behind cars parked on Santa Fe Avenue, Miranda heard additional gunshots coming from inside Wesson's apartment. Miranda broadcast a request for assistance. Sergeant Vince Ursini and Detective Scott Giles responded to the location and transported Spencer to St. Francis Medical Center. Spencer was treated for a gunshot wound to his right rear shoulder.

Special Enforcement Bureau (SEB) deputies responded to the location and assumed tactical control of the incident. SEB deputies were advised that Wesson had shot Spencer and was barricaded in his apartment. The deputies evacuated residents in the surrounding area and set up tactical positions around Wesson's apartment.

SEB Deputy Casey Cheshier deployed a Tactical Caterpillar (Tac-Cat) to the front of Wesson's unit.³ The apartment's wooden front door was open, but a metal security gate prevented a clear view inside the residence. Cheshier used the Tac-Cat's claw to remove the security door. As soon as the security door was removed, Wesson fired a round out the front door striking the Tac-

¹ The victim lived at the apartment unit closest to the street on the south side of the property.

² Spencer and Miranda have never had any prior contact with Wesson and Wesson had no connection to the case that Spencer was investigating.

³ A Tac-Cat is a Caterpillar track vehicle. It is operated by a deputy seated in an armored cab. The Tac-Cat has a hydraulic metal boom and metal claw attachment at the front of the vehicle.

Cat. Cheshier moved the Tac-Cat to the east in order to provide the surrounding deputies a clear view of the front door.

SEB Deputy Juan Rodriguez deployed the Avatar robot inside Wesson's apartment. The Avatar robot is a remote control, camera-mounted vehicle which allowed Rodriguez to monitor Wesson's movements inside the residence. Wesson fired at the robot multiple times as Rodriguez moved it around the apartment. One round struck the robot. Another round penetrated the wall shared with the apartment to the west. Several SEB deputies were positioned in that apartment and had set up a ballistic shield along the east wall. The round struck the shield, stopping its trajectory. Wesson also threw a small propane canister and other objects at the robot. Rodriguez continuously broadcast Wesson's actions over the radio. Rodriguez last saw Wesson moving toward the front door holding the gun in front of him in a "shooting position."⁴

SEB Deputies George Creamer and Mark Schultz positioned themselves in an apartment facing Wesson's on the opposite side of the courtyard. Prior to the removal of the security door, Creamer heard Wesson fire a round that struck the apartment next to them. Schultz set up a bolt action rifle atop a tripod in the living room and had a direct view of the front door through the weapon's scope. Schultz observed Wesson sprint out of the front door with the firearm extended in his hand. Schultz feared that Wesson was going to fire his weapon and strike the deputies positioned throughout the complex. Schultz fired one round hitting Wesson in the left shoulder causing him to spin around and fall to the ground and out of view.

SEB Deputy Ricardo Munoz was positioned in the turret of an armored vehicle parked on Santa Fe Avenue toward the north side of the property. Munoz had a clear view of the front door of Wesson's apartment. Munoz saw Wesson run out the front door holding the handgun in front of him. Munoz heard Schultz fire one round, however Wesson did not immediately go down. Munoz fired two more rounds at Wesson. Wesson fell to the ground and dropped the gun.

An arrest team and paramedics assigned to SEB approached Wesson who was pronounced dead at the scene.

Autopsy Report

Los Angeles County Deputy Medical Examiner Lawrence Nguyen, M.D., performed a postmortem examination of Kerry Wesson on August 28, 2014. Wesson sustained fatal gunshot wounds to the head and lower left back. He also sustained a non-fatal wound to the left shoulder and a grazing wound to the left wrist.

⁴ Multiple public address announcements were made to Wesson ordering him to exit the apartment with his hands in the air and surrender peacefully.

Firearm and Ballistic Evidence⁵

Wesson's firearm was a Beretta, Model 92FS, 9mm semiautomatic firearm. It was recovered one foot from where Wesson fell. It had one round in the chamber and seven rounds in the magazine. The eight rounds were headstamped "FC 9mm Luger."

Two fired cartridge cases were recovered in the living room of 12330 Santa Fe Avenue, Apartment C. The casings were headstamped "FC 9mm Luger."

Three fired cartridge cases were recovered in the hallway of 12330 Santa Fe Avenue, Apartment C. The casings were headstamped "FC 9mm Luger."

Three fired cartridge cases were recovered in the back porch area of 12330 Santa Fe Avenue, Apartment C. The casings were headstamped "FC 9mm Luger."

An empty 9mm handgun magazine was recovered at the base of the concrete steps leading up to the front door of 12230 Santa Fe Avenue, Apartment C.⁶

One fired cartridge case was recovered in the cut between the center grassway and the concrete walkway in front of 12330 Santa Fe Avenue, Apartment C. The casing was headstamped "PMC 9mm Luger."

Three fired cartridge cases were recovered in the planter to the west of the front door of 12330 Santa Fe Avenue, Apartment C. The casings were headstamped "PMC 9mm Luger."

Spencer's firearm was a Smith & Wesson, model M&P9, 9mm Luger semiautomatic firearm. The rounds loaded in Spencer's firearm were headstamped "WIN 9mm Luger."

Two fired cartridge cases were recovered from the edge of the center grassway near the wrought iron fence on the west side of the property. The casings were headstamped "WIN 9mm Luger."

LEGAL ANALYSIS

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger.

See, *CALCRIM No. 505*.

⁵ Ballistic testing was not conducted on any of the recovered casings.

⁶ Creamer spoke with an unidentified woman he evacuated from the apartments. She observed Wesson shoot at Spencer and Miranda and Spencer return fire. Wesson was struck on his left side when he turned back toward his apartment. Wesson then ejected a magazine from the gun and inserted another one. Wesson turned back toward the deputies and continued to fire at them. Investigators observed blood smears throughout Wesson's apartment.

CONCLUSION

The evidence examined in this case shows that Wesson ambushed Detective Spencer and shot him from behind. The assault was unprovoked and occurred without warning. In fear for his life, Spencer returned fired with his service weapon, striking Wesson in the lower back. Wesson barricaded himself inside his residence. As SEB deputies surrounded his apartment, Wesson continued to fire his weapon striking the Tac-Cat, Avatar robot and the ballistic shield protecting deputies in an adjoining unit. Wesson ignored repeated attempts by deputies to end the standoff peacefully. Instead, Wesson exited his apartment with the firearm in his hand. Wesson's actions placed Schultz and Munoz in reasonable fear for their lives, and the lives of their fellow deputies, and they responded with deadly force.

We conclude that Deputies Spencer, Schultz and Munoz acted in lawful self-defense and defense of others when they used deadly force against Kerry Wesson. We are therefore closing our file and will take no further action in this manner.