

**Officer Involved Shooting of Wayne Heim
Los Angeles County Sheriff's Department**

Deputy Paul Mendez, #529452

J.S.I.D. File #14-0712



**JACKIE LACEY
District Attorney**

**Justice System Integrity Division
October 21, 2016**

MEMORANDUM

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

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

SUBJECT: Officer Involved Shooting of Wayne Heim
J.S.I.D. File #14-0712
L.A.S.D. File #014-20359-1121-151

DATE: October 21, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 20, 2014, non-fatal accidental shooting of Wayne Heim. We find that Los Angeles County Sheriff's Department (LASD) Deputy Paul Mendez' single discharge of his shotgun, done while defending himself from a dog who was actively biting his leg, constituted a reasonable exercise of force to defend himself and other deputies in the immediate area. We further find that Heim, who was in close proximity, was accidentally struck by ricocheting pellets from the shotgun round fired at the attacking dog in justifiable self-defense.

The District Attorney's Command Center was notified of the shooting on November 20, 2014 at 5:55 p.m. The District Attorney Response Team responded to the scene and was given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports and recordings submitted by LASD Homicide Detectives Timothy O'Quinn and Judy Luera. The voluntary statement of Deputy Mendez was considered for this analysis.

FACTUAL ANALYSIS

This incident occurred on the afternoon of November 20, 2014, [REDACTED]
[REDACTED]
[REDACTED] Siblings Wayne Heim, Christopher Heim and Shannon Wainwright lived at the residence, where they often provided lodging to homeless guests.

Deputies [REDACTED] had information that Wayne Heim (hereinafter "Heim") was
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Deputy Paul Mendez was among the group of six deputies [REDACTED]. In the days prior [REDACTED] deputies, including Mendez, had surveilled Heim's residence, waiting for Heim to exit [REDACTED].

When the deputies approached [REDACTED] several male guests of the Heims were in the front yard. The group included Russell Harris and his dog, Samson, who is a mixture of Labrador, Chow and American Wolf. Samson was tied to a bicycle for the purpose of towing Harris. Samson had been shot and stabbed previously, leaving him with a strong aversion to weapons. In addition, Samson was known to bite, especially to protect Harris.

When Mendez and Camacho approached the residence and first saw Samson, he appeared to be securely tied to a fixed object. Although Samson was barking, the deputies did not perceive him as a threat. The deputies ordered Heim, Harris and their acquaintances to lie on ground. Harris and the other men lowered themselves to the ground. Heim lay face down in the dirt near Mendez' feet.

Samson lunged at Mendez and bit him on the leg. Mendez believed at first that Samson would release his bite. Samson did not let go, so Mendez shot him with his department issued shotgun. According to both Mendez and Harris, Samson did not release his bite on Mendez until he was struck by pellets from the single shotgun blast.

Statement of Deputy Paul Mendez

In the weeks prior to the incident, Mendez was among a group of deputies who had surveilled the residence waiting for Heim to exit. The date of the incident was the first time Mendez had seen Heim exit the location. Just before the incident, Mendez and Camacho agreed that Heim's exiting the residence provided the best opportunity to [REDACTED]

As Mendez approached the residence, he ordered the men in the front yard to lie down on the ground, face down. The men complied. Mendez noticed Samson, who was barking. Samson's leash appeared to be tethered to something stationary. Samson was becoming increasingly vicious. Mendez heard Harris command Samson, "Stop, come back." Samson charged Mendez and lunged at his right leg with his jaws open. Samson latched his jaw onto Mendez' leg. Mendez anticipated that Samson would release his bite thereby enabling Mendez to kick him away. Samson did not release his bite and the pain in Mendez' leg worsened.

Mendez believed that neither his fellow deputies nor the detainees were close enough to him to be in range of the fire from his shotgun. While Samson maintained his grip on Mendez' leg, Mendez shot him once with his shotgun, aiming at the dog's neck. The single round appeared to have been effective, because Samson retreated toward Harris. Mendez received medical treatment for the puncture wounds caused by the bite.

Statement of James Blanton

Blanton was among the men ordered to the ground in front of the residence. Blanton was on the ground and unable to see the incident. However, just before the shotgun blast, he heard Samson begin to bark, then he heard Samson's jaw snapping. Blanton felt the "compression" of the shotgun blast. Blanton was acquainted with Samson and had seen him bite other people who had gotten too close to Harris.

Statement of Russell Harris

According to Russell Harris, Samson had been shot and stabbed previously and hates weapons of all kinds. Samson was known to bite, and had bitten Harris previously. Samson also dislikes uniforms and boots. When the deputies arrived, Samson was tethered to a bicycle with the intention that he tow Harris to dinner. As the deputies approached, Harris tried to reach for Samson's leash, then chose to comply with the deputies' orders that he raise his hands. Harris saw Samson bite Mendez on the leg. Samson let go when Mendez fired the shotgun at him. Harris told the deputies who interviewed him that he wished to apologize to Mendez for his dog having bitten him.

Statement of Wayne Heim

Heim was leaving his residence when the deputies arrived. As the deputies neared, Samson "went crazy." Heim complied with the deputies' orders and lay on the ground on his stomach, with his face down, near Mendez. Heim did not see the incident. Heim heard Samson barking, then heard Mendez say, "Ow, he bit me." Heim heard Mendez say, "Take the shot." Heim heard a gunshot. Heim began to feel a warm fuzzy sensation on the back of his leg. Heim was taken to the hospital, where four pellets were extracted from the back of his leg, behind his knee cap. Heim indicated that he was more worried about the deputy than about his having been struck by the pellets. Heim admitted to manufacturing and using illegal narcotics.

LEGAL ANALYSIS

The doctrine of selfdefense can justify the use of lethal force in response to a dog attack:

"Conceptually, there is nothing in the elements of self-defense, as set forth in the rejected instructions that requires the threat to come from a human agency. For self-defense, the defendant must actually and reasonably believe in the need to defend, the belief must be objectively reasonable, and the fear must be of imminent danger to life or great bodily injury. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1082, 56 Cal.Rptr.2d 142, 921 P.2d 1.) The focus is on the nature of the threat, rather than its source. It serves no public policy, and is neither logical nor fair, to deprive appellant of the defense of self-defense because the threat of imminent harm came from a dog and not from a person. The use of force in defense of oneself should be legitimate, whether or not the source of the threat is a human being. In other words, the use of force in self-defense should not be illegitimate because the source of the threat is not a human being. *People v. Lee* (2005) 131 C.A.4th 1413, 1427.

The pellet strike to Wayne Heim, whose proximity to Mendez was unknown, was an accidental result of Mendez' lawful discharge of his shotgun. An act committed by accident which is neither intentional nor negligent is not a crime. (CALJIC 4.45)

Based upon the gravity of the threat posed by Samson, we conclude that Deputy Mendez was justified in using deadly force against Samson. We further find that the pellet strike to Wayne Heim was the accidental result of the lawful use of force. We are closing our file and will take no further action in this matter.