

**Officer Involved Shooting of Cleveland Henderson
Long Beach Police Department**

Officer Edmund Moscoso, #6164

J.S.I.D. File #17-0386



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 1, 2018

MEMORANDUM

TO: CHIEF ROBERT G. LUNA
Long Beach Police Department
400 W. Broadway
Long Beach, California 90802

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

SUBJECT: Officer Involved Shooting of Cleveland Henderson
J.S.I.D. File #17-0386
L.B.P.D. DR #17-47116

DATE: October 1, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 6, 2017, non-fatal shooting of Cleveland Henderson by Long Beach Police Department (LBPD) Officer Edmund Moscoso. We have determined that Officer Moscoso acted in the lawful defense of another when he used deadly force against Henderson.

The District Attorney Command Center was notified of this shooting on August 7, 2017, at approximately 2:30 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by LBPD Sergeant Megan Zabel.

The following analysis is based on reports and other materials including a 9-1-1 call, radio communications, recorded interviews of witnesses, video surveillance recordings, and photographs submitted by LBPD.

FACTUAL ANALYSIS

On August 6, 2017, at approximately 10:46 p.m., a person called 9-1-1 and reported that Jaime G. had been stabbed in the head. Officers responded to ■■■ Washington Place in Long Beach, where they contacted Jaime G. and observed multiple lacerations to her face and shoulders. Jaime G. told the officers, "[Henderson] did this, and there is still a girl inside, it's the house on 9th Street." The officers were directed to a house at the intersection of 9th Street and Washington Place, just south of their location.

Officers responded to ■■■ Washington Place, a small one-bedroom house, and heard Susan W. screaming. Officers looked inside the house through a window and saw Henderson holding what they believed to be a knife to Susan W.'s throat. Henderson held Susan W.'s back to his chest and wrapped his arm around her neck. Henderson continuously moved Susan W. back and forth from the living room to the bedroom of the house.

Officer David Chamberlain, a member of the Hostage Negotiation Team, gave Henderson numerous commands, using a patrol vehicle's public announcement system, to drop the knife and surrender. Henderson did not comply. While LBPD attempted to negotiate with Henderson, Susan W. was screaming for help. Henderson stated several times that he was not coming out and yelled, "You're going to have to kill me!" Henderson was also heard yelling, "If I die, she dies!" and, "She's the Bonnie to my Clyde." At approximately 11:18 p.m, John C., a friend of Susan W., exited the house. Henderson remained inside with Susan W.

Soon thereafter, Moscoso arrived and positioned his department issued assault rifle on top of the hood of a parked vehicle directly across the street from the front door of the house. At approximately 11:38 p.m., Moscoso fired one .223 round striking Henderson in the face. LBPD safely removed Susan W. from the house, and Henderson was transported to the hospital.



Parked vehicle where Moscoso took his firing position across the street from the house.

Statement of Jaime G.

On August 7, 2017, at approximately 4:00 a.m., investigators interviewed Jaime G. at the hospital, where she had received sutures for the stab wounds she suffered to her forehead, shoulder, forearm and hand. During the interview, Jaime G. appeared to have a difficult time staying awake, and she recounted fragments of earlier events. Jaime G. stated that she knows Henderson and that they both used methamphetamine earlier in the day. She was sleeping on a couch in the house, and woke up to Henderson strangling Susan W. An argument then ensued between Jaime G. and Henderson, whereupon Henderson stabbed her several times with a knife.

Statement of Susan W.

On August 7, 2017, at approximately 4:42 a.m., investigators interviewed Susan W. at the police station. Susan W. stated that she and Henderson were using methamphetamine earlier in the day.¹ Susan W. stated that Henderson strangled her at her house and cut the left side of her neck with a piece of broken mirror, below her ear.² Susan W. recounted that they were in the house when the police arrived, and that Henderson was holding her for “three hours” before “they shot him.” Susan W. stated she believed that Henderson was going to kill her.

Statement of John C.

John C. was also interviewed at the police station and stated that he did not know Henderson prior to this evening. John C. was sleeping in the bedroom of Susan W.’s house when Henderson woke him up. Henderson was armed with a knife, “held him hostage” for two to three hours, and threatened to kill him. Henderson called John C. a “white piece of shit,” punched him in the face, and kicked him in the back of the head. John C. heard the police commands through the open front door of the house, and heard Henderson shouting to the police that he was not going to let him and Susan W. leave.

Statement of Officer Moscoso

In his written report, Moscoso recounted that he was working uniformed patrol when he responded to an assault with a deadly weapon call near the area of 9th Street and Washington Place. While en route, Moscoso heard updates on his police radio. A sergeant indicated that a woman at the scene had been stabbed in the head and shoulder. The sergeant also advised that officers heard screaming coming from inside 856 Washington Place and that a man was armed with a knife, and holding it to the throat and head of a woman.

Prior to arriving at the scene, Moscoso learned that another man had exited the house, and police believed that Henderson and his hostage, Susan W., were the only remaining occupants. Moscoso arrived at the scene, parked his police vehicle, and retrieved his service rifle.

Moscoso positioned himself behind a parked vehicle directly across the street from the front door of the house. He rested the magazine of his rifle on the hood of the vehicle and looked through the unmagnified optic of his rifle. The front door of the house was open and light from inside illuminated the interior of the house. Also, a flashlight resting on the hood of the same parked vehicle pointed in the direction of the front door. Moscoso observed Henderson wrapping his left arm around Susan W.’s chest, with her arms hanging at her sides and her head slumped forward and canted to the left. Moscoso believed Henderson was holding her up and he feared that she was already severely injured. Moscoso observed Susan W. occasionally lift her head or arms, indicating she was alive.

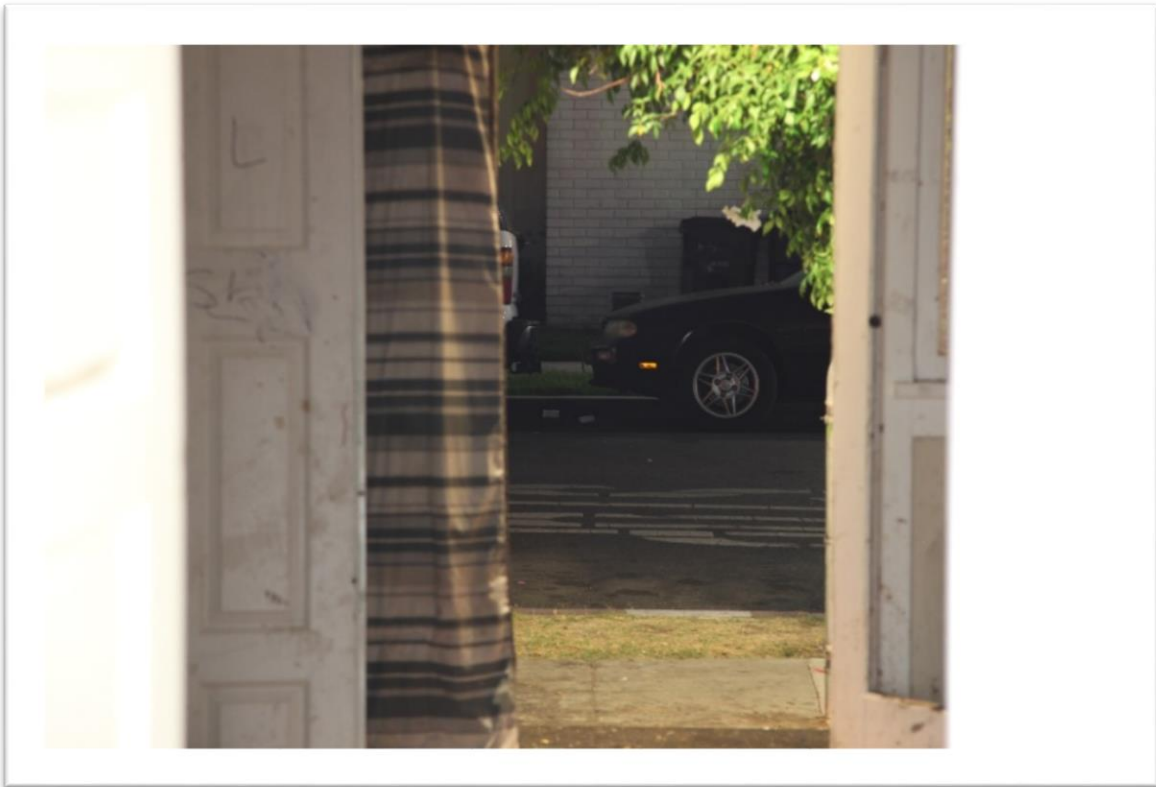
An officer standing next to Moscoso reiterated that Henderson had already stabbed a woman and was holding Susan W. hostage. He told Moscoso that Henderson kept saying that he was going

¹ During the interview, Susan W. often spoke incoherently and made numerous bizarre statements.

² Susan W. did not have any observable injuries to her neck.

to kill her, and that Henderson was holding a knife in his right hand. While looking through the optic of his rifle, Moscoso saw Henderson clenching what he believed to be a knife in his right hand. Henderson would occasionally raise his closed fist to Susan W.'s neck, resting his thumb just under her chin, and placing the blade of the knife against the skin of her neck. Henderson kept his left cheek pressed against her right cheek. Moscoso heard Henderson yell, "I'm going to kill her! You're going to have to kill me! I'm not coming out!" Moscoso believed that Henderson was going to kill Susan W.

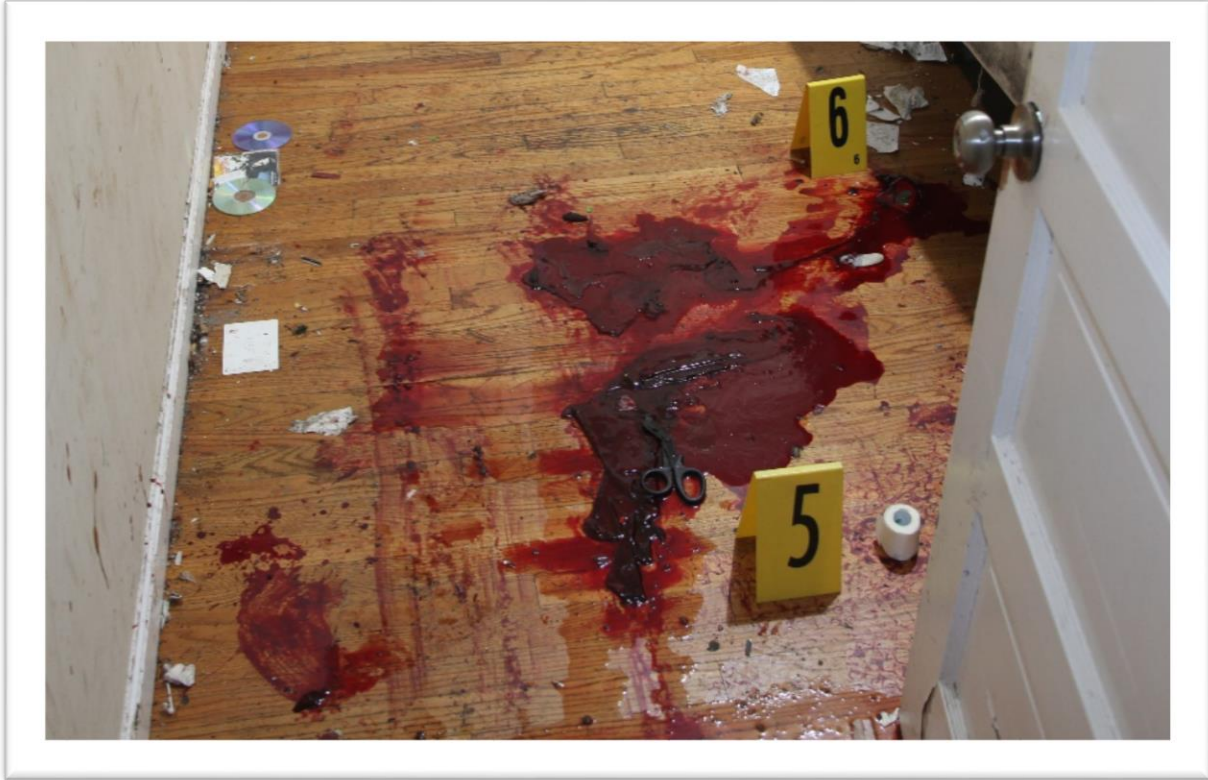
As Moscoso continued to observe Henderson and Susan W. through his optic, he saw Henderson momentarily create some space between his head and Susan W.'s head. Moscoso fired his rifle one time at Henderson's head, striking him in the face and causing him to immediately fall.



View from inside the bedroom facing the open front door and across the street where Moscoso took his firing position.

Other Evidence

Several pieces of broken glass/mirror covered in blood were photographed inside the bedroom where Henderson was shot.³ No knife was recovered inside the bedroom.



Henderson sustained a gunshot wound to the face between his upper lip and nostril, and survived his injuries. Henderson is charged in case number NA107071 with attempted murder, false imprisonment, and assault with a deadly weapon.

Henderson's blood was obtained and a toxicology drug screen examination revealed the presence of amphetamines, cocaine, and cannabinoids.

LEGAL ANALYSIS

In protecting himself or another, a person may use that amount of force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. *CALCRIM No. 505.*

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

³ The scissors at scene was left behind by medical personnel providing aid to Henderson.

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 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.

Here, Henderson assaulted Jaime G. with a sharp object inside Susan W.'s house. Jaime G. escaped to a nearby residence seeking help, and another individual telephoned 9-1-1. When the police arrived, Jaime G. informed them that Henderson assaulted her and that another woman remained in the house with Henderson. When police responded to Susan W.'s house, they could hear her screaming and determined that Henderson was holding Susan W. by force. Several LBPD officers observed Henderson holding a sharp object, which they believed to be a knife, to Susan W.'s neck and head. The sharp object was likely a piece of broken mirror as recounted by Susan W. in her interview with investigators. Henderson repeated several statements indicating that he did not intend to surrender, that the police would have to kill him, and that he would kill Susan W.

Prior to Moscoso's arrival, John C. escaped. When Moscoso arrived, LBPD personnel briefed Moscoso as to what had already transpired, including that Henderson had already assaulted Jaime G. with a knife. When Moscoso took his position across the street from the entrance of the house, he saw Henderson holding Susan W. hostage with what he believed to be a knife and heard him threatening to kill her. Moscoso saw Henderson holding Susan W. in a manner that indicated she may have already been injured. Moscoso believed that Henderson was going to kill Susan W., and he fired his rifle one time at Henderson striking him in the face and immediately stopping the threat he posed to Susan W.

Henderson's threatening actions and words, along with Susan W.'s belief that Henderson was going to kill her, indicate that Moscoso reasonably believed that Susan W. was in imminent danger of being killed or suffering great bodily injury when he used deadly force.

CONCLUSION

We conclude that Officer Moscoso's use of deadly force was legally justified in the defense of Susan W. We are closing our file and will take no further action in this matter.