

**Officer Involved Shooting of Jeovany Mendoza
Los Angeles Police Department**

Officer Ericandrew Avendano #40753

J.S.I.D. File #12-0792



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District Attorney

Justice System Integrity Division

September 19, 2016

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
 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: Officer Involved Shooting of Jeovany Mendoza
 J.S.I.D. File #12-0792
 L.A.P.D File #F083-12

DATE: September 19, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 1, 2012, fatal shooting of Jeovany Mendoza by Los Angeles Police Department (LAPD) Officer Ericandrew Avendano. It is our conclusion that Officer Avendano acted in lawful defense of another.

The District Attorney's Command Center was notified of the shooting on December 1, 2012, at approximately 9:00 p.m. The District Attorney Response Team (DART) responded and was given a briefing and a walk-through of the scene.

The following analysis is based upon investigative reports, analyzed evidence reports, 9-1-1 calls, videos, diagrams, and witness statements taken during the investigation by LAPD, submitted to this office by Detective David Smith. The compelled statement of Officer Avendano was not considered in this analysis.

FACTUAL ANALYSIS

On December 1, 2012, at approximately 8:15 p.m., Officers Ericandrew Avendano and Travis Ward responded to a 9-1-1 call in Van Nuys of a Hispanic male holding a knife to a female's throat.¹ The officers proceeded northbound on Tobias Avenue from Saticoy Street and turned eastbound into an alley between Saticoy Street and Keswick Street.² There, they encountered

¹ The two officers were partners that day and both were in uniform and in the same, marked police vehicle; Ward was the driver while Avendano was the front passenger.

² The alley is flanked on the north by businesses and on the south by carports which are adjacent to apartment complexes.

Jeovany Mendoza whose left arm was wrapped around the chest and neck of his girlfriend, Marisela V [REDACTED]. Mendoza's right hand held a large kitchen knife to her neck.³

Both officers exited the vehicle, took cover behind their opened car doors, and pointed their service weapons at Mendoza.⁴ Mendoza and V [REDACTED] stood approximately 20 to 25 feet east of the patrol vehicle. As Mendoza walked a hysterical and crying V [REDACTED] towards the patrol vehicle, blood was visible on her arms, face, and neck.⁵ Mendoza appeared to be enraged as he yelled at the officers to back up or he was going to kill V [REDACTED].

Avendano and Ward both ordered Mendoza to drop the knife, but he replied, "No, fuck you. I'm gonna [sic] kill her." Ward acted as the cover officer and broadcast a description of the situation and their location.⁶ After pausing momentarily, Mendoza advanced with V [REDACTED] grasped closely to him and the knife pointed at her neck. Mendoza paused when reaching the south side of the alley (approximately 12 feet from Avendano) and was closer to Avendano than Ward.

Ward heard Avendano order Mendoza to drop the knife and then one shot fired from where Avendano was positioned.⁷ Ward saw Mendoza drop in place and the knife fall out of his hand. V [REDACTED] ran a few feet to the north side of the alley. Ward updated their status over the radio as Avendano moved towards Mendoza who was lying motionless and did not appear to be breathing. Avendano kicked the knife away from Mendoza's hand and kept the firearm trained on him until Ward handcuffed Mendoza.⁸ At approximately 8:25 p.m., the Los Angeles County Fire Department arrived in order to render medical aid to both Mendoza and V [REDACTED]. Mendoza was unresponsive and death was pronounced shortly thereafter, while V [REDACTED] was transported to the hospital for two lacerations to her left hand which required five sutures.⁹

Earlier that afternoon, V [REDACTED] was at Mendoza's residence with their toddler son (Junior), Mendoza, his younger brother, and his parents when Mendoza began acting paranoid.¹⁰ According to V [REDACTED], Mendoza needed medication for paranoia that resulted from using methamphetamine, and he had spent time in drug rehabilitation. V [REDACTED] decided to stay home from work to watch Mendoza and she observed his mother Olga Casillas telling him to

³ The knife measured thirteen inches in total length with the blade measuring eight inches in length.

⁴ Ward stated that he unholstered his weapon because he had seen the knife, and believed that the hostage situation might escalate to the point where deadly force might be necessary.

⁵ Ward later stated to investigators, "I could not tell what kind of injuries she had. She was just covered in blood."

⁶ Ward began his broadcast after initially attempting to obtain a line of sight on Mendoza, and realizing that with V [REDACTED] head in the way, he did not have a safe angle on Mendoza. While holding the radio in his right hand, Ward's left hand held his weapon which remained pointed at Mendoza. Although Ward's transmission was not captured on the frequency, a civilian video by Joel Diaz (discussed below) depicts Ward talking into his handheld radio.

⁷ Avendano was armed with his Department-issued Glock 17, a 9mm caliber semiautomatic handgun, with a maximum capacity of 17 rounds in the magazine and one in the chamber for a total of 18 rounds. The Glock was recovered with 16 live rounds in the magazine and one in the chamber. One ejected cartridge case was collected approximately four feet, five inches south of Avendano's position behind the patrol vehicle's front passenger-side door.

⁸ The kitchen knife was recovered on the ground approximately 17 feet east of Mendoza, and covered from handle to blade in what appeared to be blood.

⁹ The Los Angeles County Coroner's Office later determined Mendoza's cause of death to be a fatal, front-to-back, gunshot wound to his left, lower eyelid. A toxicology report detected the presence of methamphetamine in Mendoza's blood.

¹⁰ The residence is located in an apartment complex near the northeast intersection of Saticoy Street and Tobias Avenue.

empty his pockets.¹¹ Mendoza retrieved some methamphetamine folded inside a dollar bill, and Casillas took it from him and left for work. Mendoza's father also left the residence while V ██████ watched over Junior, Mendoza, and his brother.

At approximately 7:40 p.m., Mendoza exited the residence with a kitchen knife and V ██████ decided to follow him. She located him on Tobias Avenue looking around and appearing to be "imagining stuff." Mendoza approached V ██████, grabbed and spun her around with his left hand, pulled the knife from his pants pocket with his right hand, placed it on her neck, and stated, "Don't move or I'm going to stab you." V ██████ responded, "Don't hurt me. It's me, Marisela, what are you doing? You don't recognize me?" Mendoza told her to "shut up" and inquired as to his brother's whereabouts. V ██████ attempted to get Mendoza to "snap out of it" by claiming that she had come to get him because his brother was calling for him, but Mendoza replied, "You're lying. You have him. I know you have him. Where is he?"

With his left arm wrapped around the front of V ██████ neck and the knife in his right hand, Mendoza traveled back and forth along Tobias Avenue and eventually into an east/west alley between Keswick Street and Saticoy Street. As he looked into parked vehicles and inquired whether any of them contained his brother, Mendoza told V ██████ that if she did not keep walking, he would stab her. As they walked, he "poked" at her stomach and neck with the knife, but did not yet cause any injuries. Inside the alley, however, Mendoza turned to look behind him and the knife moved near V ██████ right eye. Fearing that she would be stabbed in the eye, V ██████ grabbed the knife by the blade. Mendoza pulled the knife away and lacerated her hand causing it to bleed profusely. When V ██████ stated that he had cut her hand, Mendoza ordered her to keep walking and "shut the fuck up."

While inside the alley, Mendoza accosted the Guerrero family who had traveled eastbound into the alley from Tobias Avenue in a vehicle driven by Martin Guerrero. The Guerreros were at the location to pick up family members from their in-law Dany Machado. As Martha and Veronica Guerrero exited their car, Mendoza approached with his left arm around V ██████ in a headlock and his right hand holding a large kitchen knife at her neck. Veronica Guerrero noticed that V ██████ hands were "covered in blood." Mendoza ordered Martin Guerrero to get out of the vehicle or he would kill V ██████. All of the Guerreros fled except for Veronica Guerrero who told Mendoza to calm down, put the knife away, and that he was not going to take their vehicle. Mendoza stated he was going to kill the "bitch" if Veronica Guerrero did not move from her car.¹² Veronica Guerrero called 9-1-1 and later stated to police, "I did feel her life was in danger just because he was so angry. . . . [H]e looked like he was ready to like do something and she obviously had been hurt . . . because she was covered in blood and she said that she needed help and that she didn't want to die today."¹³

Gustavo Martinez, driving Joel and Guadalupe Diaz in his truck, was traveling eastbound in the alley when the group encountered the confrontation between Veronica Guerrero and Mendoza. Martinez observed him holding a bleeding V ██████ with his left hand and what Martinez

¹¹ Casillas and V ██████ suspected that Mendoza had been using drugs because in addition to acting paranoid, he was also pale and sweating.

¹² Machado, who also tried to convince Mendoza not to take the vehicle, heard him say, "Hey, I need to take the car because I'm going to kill this bitch."

¹³ Martin Guerrero and Machado also later told police that they believed Mendoza was going to kill V ██████.

believed to be a knife in his right hand.¹⁴ In fear, Martinez quickly reversed westbound from the alley when Mendoza turned to walk V [REDACTED] towards Martinez's truck. He could hear Mendoza "screaming" that she had done something to his brother. From Martinez's perspective, Mendoza looked like he was "zoned out."¹⁵

As Mendoza continued westbound in the alley, Avendano and Ward arrived to the location. V [REDACTED], Veronica Guerrero, Machado, and Martinez all heard Avendano and Ward order Mendoza multiple times to drop the knife.¹⁶ In the aftermath, V [REDACTED] recounted to investigators, "He [police officer] asked me if I was alright -- if he [Mendoza] had injured me. And I told him, 'my hand.' And then I just told him, 'Thank you. Thank you. I thought he was going to kill me.'"

Video Footage

Joel Diaz Cell Phone Video

After Martinez backed his truck out of the alley, he parked it facing a northeasterly direction and adjacent to the east sidewalk on Tobias Avenue just north of the alley. His front passenger, Joel Diaz, recorded the shooting with his cell phone camera.¹⁷ In the video, both of Mendoza's arms can be seen at the neck and chest area of V [REDACTED], whose own arms were bent towards his arms. Due to the poor quality of the video, the knife is not discernible. As the recording began, Mendoza shouts, "Back up! Back up!" to both officers who had taken cover behind their doors with their weapons pointed at Mendoza. One of the officers replies, "Put your hands up! Drop the knife!" Still holding his firearm with his left hand, Ward's right hand reaches for a radio on his belt and he spoke into it.¹⁸ Another command to drop the knife is given as Mendoza advances towards the officers with V [REDACTED] in his grasp. An officer then orders, "Hey, drop the knife!"

At this point, the video appears to pan left and becomes unfocused as a single gunshot rings out. This occurs 21 seconds after Mendoza first told the officers to back up and 17 seconds after Mendoza was initially ordered to put his hands up and drop the knife. The video then appears to pan right and re-focuses on Mendoza, who was on the ground, while V [REDACTED] can be seen running northbound away from him. Avendano and Ward approach Mendoza with their guns drawn, and Ward can be seen talking on his radio, donning gloves, and handcuffing Mendoza after he holstered his gun. Avendano continues to cover Mendoza with his weapon drawn until

¹⁴ Martinez stated that Mendoza both pointed the knife at V [REDACTED] neck as well as had the knife down at his side, and is the sole witness to believe that Mendoza had the knife down at his side at the time of the shooting.

¹⁵ Machado stated to investigators that Mendoza appeared to be "on drugs."

¹⁶ For example, V [REDACTED] later stated the following to investigators: "They both told him, 'Drop the knife.' And he told them to get out of the way or 'I'm going to stab her.' And the police officer told him, 'Drop the knife.' And he wouldn't -- he kept saying the same thing. And then that's when I heard a shot." Veronica Guerrero and Machado also heard Mendoza tell police that he was going to kill V [REDACTED].

¹⁷ The camera was pointed in a southeasterly direction at the left profile and back of Ward. Avendano's left profile and back are intermittently visible before the shooting, and both officers can be seen approaching Mendoza after the shooting.

¹⁸ Although the video appeared to depict Ward speaking into his handheld radio on at least two occasions, none of the transmissions were captured on the frequency.

Mendoza's hands are handcuffed behind his back. The recording ends as Avendano is holstering his weapon.

AG Heating and Air Conditioning Surveillance Video

The AG Heating and Air Conditioning's surveillance video depicts its gated yard, Tobias Avenue from Saticoy Street to the business location, and a portion of the east-west alley.¹⁹ Mendoza and V [REDACTED] can first be seen at 8:11 p.m. when they step onto the east sidewalk from Tobias Avenue (just south of the alley) and proceed northbound. Mendoza's left arm holds V [REDACTED] in a headlock at his waist level while his right hand appears to be holding an item which he periodically thrusts in a back and forth motion at V [REDACTED] head. Due to the quality of the video, the knife is not discernible. At 8:11:24 p.m., however, a distinctive glint can be seen reflecting from the item in Mendoza's right hand. Shortly after crossing the alley, the two step off the sidewalk onto Tobias Avenue and walk out of view in a northwesterly direction.

At 8:13 p.m., Mendoza and V [REDACTED] walk back into view as the two proceed southbound on the east sidewalk of Tobias Avenue. V [REDACTED] walks upright but Mendoza's left arm remains around her neck and chest area while his right hand appears to be balled into a fist. From the video, it is not possible to determine whether Mendoza was holding a knife. The two walk eastbound into the alley and out of view. At 8:14 p.m., Martinez's truck can be seen driving northbound on Tobias Avenue before it proceeds eastbound down the alley. Within the minute, however, the truck quickly backs westbound from the alley and stops at the entrance until 8:15 p.m. when Avendano and Ward arrived. After the truck immediately backs out of the alley while flashing its lights, the patrol car proceeds eastbound into the alley and stops at the entrance.

Both Avendano and Ward exit the vehicle and remain behind their respective doors. The officers' specific actions are not discernible due to the video's quality, but at 8:16:07 p.m., Mendoza and V [REDACTED] appear as they proceed westbound in the alley. V [REDACTED] remains in Mendoza's grasp but is now positioned in front of him. As with the officers, V [REDACTED] and Mendoza's specific actions are also not discernible. The two pause briefly before once again walking towards the officers. It appears that Mendoza and V [REDACTED] pause again before Mendoza falls to the ground. V [REDACTED] was also pulled to the ground by Mendoza before she sprang back up and ran northbound away from him.

At this point, both officers can be seen approaching Mendoza with their guns pointed at him. Avendano continues to cover Mendoza until after Ward leans over him (presumably to handcuff Mendoza as seen in Diaz's video). From the video, Avendano and Ward appear to be the only officers on the scene until additional officers responded at 8:18 p.m. and thereafter.²⁰

¹⁹ The video does not contain sound and is time-stamped as running from 8:05 p.m. to 9:06 p.m. on December 1, 2012.

²⁰ Emergency medical personnel also responded to the scene after the shooting.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle*, 35 Cal.4th 987, 994 (2005) (overruled on another ground in *People v. Chun*, 45 Cal.4th 1172, 1201 (2009)); *People v. Humphrey*, 13 Cal.4th 1073, 1082 (1996); *see also*, CALCRIM No. 505. In protecting himself or another, a person may use all the 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 the injury which appears to be imminent. CALCRIM No. 3470.

“The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Graham v. Connor*, 490 U.S. 386, 396 (1989). “The calculus of reasonableness must embody allowance for the fact that police 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.” *Id.* at 396-97. The test for whether an officer’s actions were objectively reasonable is “highly deferential to the police officer’s need to protect himself and others.” *Munoz v. City of Union City*, 16 Cal.Rptr.3d 521, 540 (Ct. App. 1st Dist. 2004).

The evidence examined shows that Mendoza’s actions placed Officers Avendano and Ward in reasonable and actual fear of imminent death or great bodily harm to V [REDACTED]. Indeed, the belief that Mendoza was going to kill her was shared by every witness who had direct contact with him immediately prior to the shooting, e.g., V [REDACTED], Veronica Guerrero, Martin Guerrero, and Machado.

Before Avendano and Ward ever arrived to the scene, Mendoza had encountered Veronica Guerrero and Machado who tried to calm Mendoza and convince him to drop the knife. Prior to their futile attempts, V [REDACTED] had also tried to placate him. Mendoza’s violent spree, however, continued unabated as he held V [REDACTED] hostage, attempted to kidnap her using the Guerreros’ vehicle, and repeatedly stated his intention to kill her for the perceived wrongs she had committed against his brother. Mendoza’s irrational behavior was apparent not only to V [REDACTED] who suspected that he had used methamphetamine, but also to Machado who believed him to be “on drugs” and Martinez who described him as “zoned out.”

Mendoza’s aggression continued upon the arrival of Avendano and Ward as he yelled at them to “back up.” This command was coupled with threats to stab and/or kill an already bloody and crying V [REDACTED]. The extent of her injuries unknown, Ward could only see that she had blood on her arms, face, and neck. From his position, however, he was unable to gain a safe angle on Mendoza without also jeopardizing V [REDACTED]. In the meantime, the Diaz video which began recording when both officers were already out of the patrol car with their guns drawn, clearly depicts the officers ordering Mendoza to “drop the knife” at least three times and Mendoza having an ample opportunity to do so. Instead of complying, however, Mendoza advanced towards the officers with the knife at V [REDACTED] neck. After a final order to drop the knife, Avendano fired a single round at Mendoza.

During the entire ordeal, Mendoza kept V [REDACTED] in a headlock with the large kitchen knife pointed (and at times thrust) precariously at her neck, face, and stomach. Even the fact that

she had suffered lacerations which caused her to bleed profusely did not appear to give him pause. Given these rapidly evolving circumstances, Avendano was reasonable in his use of deadly force in order to save V [REDACTED] life.

CONCLUSION

We find that Officer Avendano acted in lawful defense of another. We are therefore closing our file and will take no further action in this matter.