

Officer Involved Shooting of Keisha Henderson

Los Angeles School Police Department

Sergeant Joseph Ivankay #879

J.S.I.D. File #19-0176



JACKIE LACEY

District Attorney

Justice System Integrity Division

March 3, 2020

MEMORANDUM

TO: CHIEF TODD CHAMBERLAIN
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Keisha Henderson
J.S.I.D. File #19-0176
L.A.S.P.D. File #19-0002209
F.I.D. File #F011-19

DATE: March 3, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 12, 2019, non-fatal shooting of Keisha Henderson by Los Angeles School Police Department (LASPD) Sergeant Joseph Ivankay. We have concluded that Sergeant Ivankay acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 6:20 p.m. on April 12, 2019. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, transcripts of interviews, video recordings, photographs, crime scene diagrams and sketches, and witness statements submitted to this office by Los Angeles Police Department (LAPD) Detective Michael Arteaga. Sergeant Ivankay's compelled statement was considered in this analysis.

FACTUAL ANALYSIS

On April 12, 2019, at approximately 2:48 p.m., London H. opened the rear driver's side door of her Honda Civic that was parked on the curb of South Alvarado Street. London H. leaned into the driver's side back seat of her vehicle to retrieve something as Keisha Henderson drove past

her traveling northbound on Alvarado Street in a Chevrolet Avalanche truck.¹ After passing London H., Henderson negotiated a U-turn and briefly traveled south on Alvarado Street before colliding into London H. and the driver's side of her vehicle. The impact caused the rear driver's side door to completely open toward the front of the vehicle and London H. to be ejected onto Alvarado Street.² London H. suffered a fracture to her left ankle and a sprain to her right ankle.

Henderson continued traveling south on Alvarado Street for approximately one block, where she struck a pedestrian in the crosswalk as she conducted a U-turn. Henderson then swerved into the southbound lanes of traffic and collided with the front bumper of another vehicle before continuing north on Alvarado Street, back toward London H. Henderson passed London H., who was now sitting in the street to the rear of her vehicle, negotiated a U-turn and pulled up next to London H.'s car. London H. quickly rose to her feet, walked off the street, and stood on the sidewalk. Henderson reversed the Chevrolet Avalanche and backed into the front of a pickup truck that was parked behind London H.'s car. Henderson then drove south on Alvarado Street and turned into the parking lot of a nearby business.

At approximately 2:50 p.m., LASPD Sergeant Joseph Ivankay was driving south on Alvarado Street in a blue unmarked Crown Victoria police vehicle.³ Civilian co-workers Nicole M. and Samantha C. were seated in the front passenger seat and right rear passenger seats, respectively. Ivankay and his passengers noticed several people running on Alvarado Street as they approached London H.'s damaged vehicle. Ivankay activated his front and rear window emergency lights and stopped his police vehicle in the number two lane of southbound Alvarado Street, to the rear of London H.'s car.

Ivankay exited his vehicle and contacted London H. on the sidewalk. London H. and other pedestrians began pointing south on Alvarado Street, identifying the Chevrolet Avalanche traveling toward them as the vehicle that had struck London H. and her car. Ivankay walked into the number two lane of southbound Alvarado Street and broadcast via his handheld police radio, "We have a hit and run."

Henderson pulled adjacent to Ivankay in the northbound number one lane of Alvarado Street. The tires of the Avalanche squealed as the vehicle quickly turned left, accelerated forward, and struck Ivankay in the right leg, causing him to fall to the ground and hit his head on the pavement.⁴ The Avalanche continued forward and struck the left front driver's side portion of Ivankay's police vehicle before stopping.

¹ Henderson had stolen multiple vehicles earlier that day, including the Avalanche, and had been involved in numerous assaults and traffic collisions.

² The incident was recorded on video by surveillance cameras and bystanders with cell phones.

³ Ivankay was the supervisor of the LASPD Mental Health Evaluation Team. He was wearing a blue Polo shirt with the abbreviations "MHET" and "J. Ivankay" on the front of the shirt and gray pants. Ivankay had a service weapon, badge, and handcuffs attached to his equipment belt. He had a baton, Hobble Restraint Device, and body armor inside his police vehicle. Ivankay was not equipped with a Taser or Oleoresin Capsicum (OC) spray.

⁴ Ivankay sustained multiple abrasions to his right lower leg, a foot contusion to his right foot, and a left scalp abrasion.



Figure 1 – Screenshot from cell phone video depicting Henderson striking Ivankay with the Chevrolet Avalanche.

The tires of the Avalanche squealed again as Henderson reversed the vehicle into the middle of Alvarado Street. Ivankay got to his feet and broadcasted on his police radio, “Need help! Officer Down! Alvarado.” Ivankay quickly limped onto the sidewalk and stood between the rear of London H.’s Civic and the police vehicle. Ivankay began to unholster his service weapon as Henderson accelerated the Avalanche toward him. The Avalanche struck the Civic and police vehicle, forcing its way past both while heading toward Ivankay. Ivankay dropped his police radio and scrambled southbound on the sidewalk to avoid being struck. The Avalanche continued forward, crossed over the sidewalk, and collided into the exterior wall of a building.

Ivankay stood behind the Civic, pointed his service weapon at Henderson, and ordered her to “Stop!” multiple times. As this was occurring, Eamon H., a security guard from a nearby business, unholstered his handgun and began to cross Alvarado Street to assist Ivankay.



Figure 2 – Screenshot from cell phone video depicting Ivankay holding Henderson at gunpoint while a security guard crosses the street.

Ivankay pointed his service weapon at Henderson for approximately 30 seconds ██████████ ██████████ Henderson turned off the engine and opened the driver's door. Ivankay continued to hold Henderson at gunpoint as he walked around the front end of the Civic and onto Alvarado Street. When Ivankay got between the Civic and the Avalanche, Henderson exited the driver's door of the Avalanche armed with a screwdriver in her right hand and began aggressively walking toward Ivankay. Ivankay took several steps backward while he continued pointing his service weapon at Henderson and ordered her to, "Get down!" and "Put the weapon down!"⁵

As Henderson walked toward Ivankay, Eamon H. drew his Taser and quickly walked up behind and slightly to the left of Ivankay.⁶ Henderson raised her left arm and pointed at Ivankay while keeping her right hand that was holding the screwdriver down by her side. When Henderson got approximately four feet from Ivankay, Eamon H. shot her with his Taser from a distance of approximately 14 feet away. The Taser probes hit Henderson's left leg and chest, causing her body to suddenly jerk, stiffen, and begin to fall forward. Approximately one half second after Henderson was struck by the Taser, Ivankay fired one round toward her, striking her in the left forearm and right thumb. Henderson fell forward and landed on the pavement.

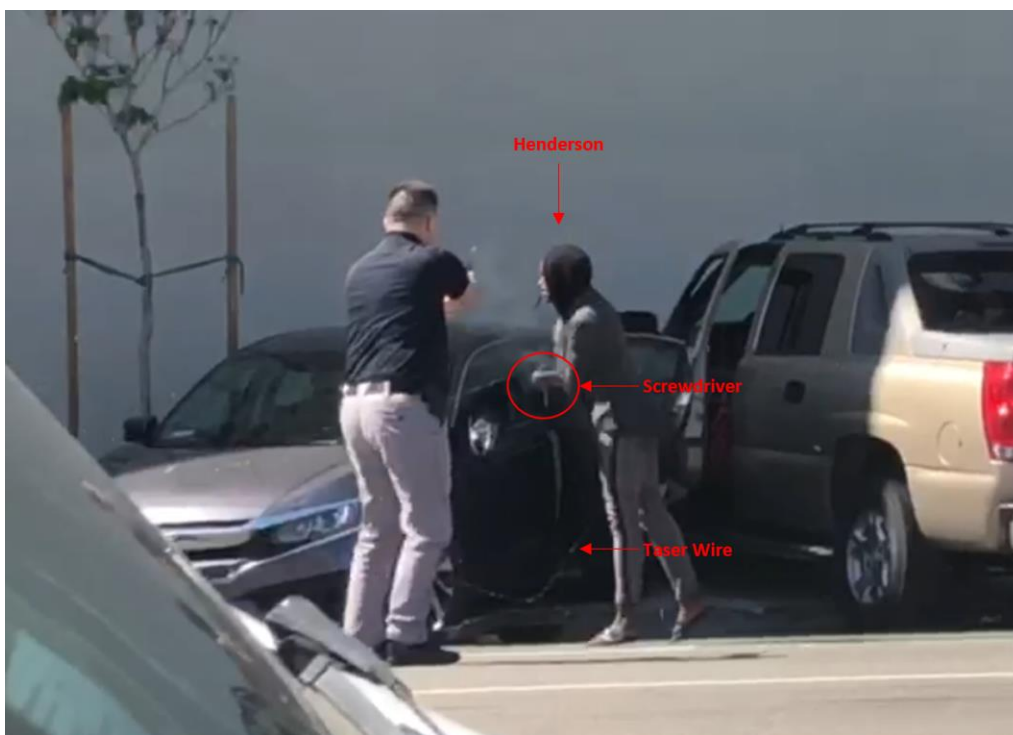


Figure 3 – Screenshot from cell phone video depicting Ivankay firing at Henderson.

Ivankay kept his service weapon pointed at Henderson as she lay on the ground. When additional officers arrived, Ivankay walked over to his police vehicle, holstered his service

⁵ Ivankay's commands cannot be heard on the cell phone videos due to ambient noise and the distance from which they were recorded. Multiple witnesses heard Ivankay tell Henderson to, "Get down!" repeatedly. Security guard Eamon H. recalled hearing Ivankay tell Henderson to, "Put the weapon down!"

⁶ There are no indications that Ivankay was aware of Eamon H.'s presence. According to Eamon H., he did not give any verbal commands to Henderson or advise Ivankay of his presence.

weapon, and collapsed onto the ground next to the driver’s side door. LASPD Officer Marivick Mammit observed a black screwdriver located approximately three inches from where Henderson lay and moved it for officer safety reasons.



Figure 4 – Photograph of screwdriver recovered at the scene.

Los Angeles Fire Department personnel arrived at the scene to treat Henderson and Ivankay for their injuries, and both were transported to the hospital. Henderson sustained a gunshot wound to her left forearm, which caused a fracture to the left ulna. The single discharged round also caused a gunshot wound and open fracture to her right thumb.

LAPD investigators interviewed Henderson in the hospital two days after the incident. Henderson stated that she had smoked marijuana and drank half a bottle of wine. Henderson denied hitting London H. and her vehicle. She stated that an officer ran into the street and told her to, “Stop the car!” She then pulled over and must have accidentally run him over. According to Henderson, she was complying with the officer’s order to get on the ground when she was tased and shot for no reason. Henderson denied having a screwdriver in her hand when she exited the vehicle.

On April 15, 2019, investigators interviewed Ivankay. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

On April 17, 2019, Henderson was charged in case BA477000 with one count of driving or taking a vehicle without consent in violation of Vehicle Code section 10851(a), nine counts of assault with a deadly weapon in violation of Penal Code section 245(a)(1), four counts of hit and run driving resulting in injury to a person in violation of Vehicle Code section 20001(b)(1), four counts of hit and run driving resulting in property damage in violation of Vehicle Code section 20002(a), two counts of attempted carjacking in violation of Penal Code section 664/215(a), three counts of willful, deliberate and premeditated attempted murder in violation of Penal Code section 664/187(a), one count of carjacking in violation of Penal Code section 215(a), and one count of assault upon a peace officer in violation of Penal Code section 245(c). The matter is pending a preliminary hearing.

LEGAL ANALYSIS

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.

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. If the person’s beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer “may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the

[REDACTED]

decendent posed a threat of serious physical harm to the officer or others, or (b) that the decendent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

An officer has “probable cause” in this context when he knows facts which would “persuade someone of reasonable caution that the other person is going to cause serious physical harm to another.” CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody “appears to the officer likely to inflict great bodily injury on himself or those acting with him.” *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

“Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

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.

In this matter, Ivankay was informed that Henderson had just committed a hit and run on London H.’s vehicle. Henderson then returned to the scene and struck Ivankay with a truck, reversed the vehicle, and attempted to strike him again. Ivankay’s leg and head were injured, and he was limping. When Henderson exited the vehicle, she aggressively walked toward Ivankay while armed with a screwdriver. Henderson continued advancing despite repeated orders, causing Ivankay to retreat in an effort to put space between them. Henderson got approximately four feet away from Ivankay when a security guard deployed a Taser, which caused Henderson’s arms and body to suddenly jerk. At approximately the same time, Ivankay, [REDACTED] and reasonably in fear that he was about to be attacked, responded with deadly force.

CONCLUSION

We conclude that Sergeant Ivankay acted lawfully in self-defense when he used deadly force against Keisha Henderson. We are closing our file and will take no further action in this matter.