

**Fatal Officer Involved Shooting of  
Rommel Fimalino Mendoza  
Los Angeles Police Department**

**Officer Daniel Harty, #41155**

**J.S.I.D. File #20-0183**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**August 20, 2024**

**MEMORANDUM**

TO: CAPTAIN OMAR BAZULTO  
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: Fatal Officer Involved Shooting of Rommel Fimalino Mendoza  
J.S.I.D. File # 20-0183  
F.I.D. File # F020-20

DATE: August 24, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 27, 2020, fatal shooting of Rommel Fimalino Mendoza by Los Angeles Police Department (LAPD) Officer Daniel Harty. It is our conclusion that there is insufficient evidence to prove Officer Harty's use of force was unreasonable beyond a reasonable doubt.

The District Attorney's Command Center was notified of this shooting on May 28, 2020, at 1:08 p.m. The District Attorney Response Team was given a briefing and walk-through of the scene by LAPD Lieutenant James Antenucci.

The following analysis is based on reports, audio recordings, video recordings, photographs, and transcripts submitted to our office by LAPD Force Investigation Division (FID) on June 1, 2021 and supplemental materials provided on December 12, 2023 and June 3, 2024. No departmentally compelled statements were considered in this analysis.

**FACTUAL ANALYSIS**

On Wednesday, May 27, 2020, at approximately 11:35 a.m. two uniformed officers assigned to North Hollywood Patrol Division responded to a radio call of a neighbor dispute. They met with the reporting parties and attempted to contact the subject, Rommel Fimalino Mendoza, at his (Mendoza's) residence. The officers approached the front of the residence and knocked but received no answer. They approached the rear residence and walked toward the backyard. When they reached the rear house, Mendoza exited his residence with a large, bladed sword, called on the officers to shoot him, and advanced toward them. The officers backed away to the street and requested help. The officers took cover behind parked vehicles and repeatedly told Mendoza to drop the sword. While the officers waited for additional units, Mendoza returned to his residence.

Additional officers and supervisors responded to the scene. Mendoza exited his residence a second time with the sword and officers made repeated commands to drop the weapon. After Mendoza advanced toward the officers, they deployed a 40-mm less-lethal impact round and a rifle shot. Mendoza was struck by a single rifle round to the chest and died at the scene.

### **Radio Communications**

At approximately 10:40 a.m., the Communications Division (CD) received a call from [REDACTED], a resident of [REDACTED] Avenue in the City of North Hollywood. She reported that her neighbor, later identified as Mendoza, was under the influence of narcotics and had damaged the side view mirror of her husband's vehicle. She reported that Mendoza was armed with a stick, claimed to be a police officer, and displayed a badge attached to his waistband.

At 10:44 a.m., CD broadcasted, "Any North Hollywood unit, neighbor dispute, [REDACTED] Avenue. Suspect is a male, Asian, wearing a cap, blue/grey shirt, khaki shorts and sandals, Code-Two, Incident 2046, RD 1527." At 10:50 a.m., CD repeated the broadcast and subsequently assigned the radio call to Officers David Doyle and Jeremy Radke.

### **Body Worn Video (BWV)**

Responding officers were all equipped with body worn video (BWV).

#### ***Doyle and Radke BWV***

Based on the BWV, Doyle and Radke arrived on scene at approximately 11:35 a.m.,<sup>1</sup> and spoke to neighbors in the area. One neighbor reported that Mendoza had damaged the driver's side mirror of his vehicle with a stick. When the neighbors confronted Mendoza, Mendoza said that he was a police officer and displayed a badge attached to his waistband. Another neighbor reported that Mendoza had pointed a firearm at a neighbor several weeks prior. The neighbors requested that the officers contact Mendoza to possibly quell his aggressive behavior.

At approximately 11:58 a.m., Doyle and Radke approached the front of Mendoza's residence and knocked on the door but received no answer. The officers then walked around to the backyard through the south side of the residence. At the back of the house, the officers found a partially opened sliding glass patio door with a white sheet covering the interior.

Doyle immediately announced himself stating, "Hello, LAPD is anyone home?" Mendoza's voice could be heard from within the house behind the white sheet. Initially, Mendoza's voice was unintelligible, but as he got louder and closer to the doorway, he could be heard yelling, "I'm here to fight. Let's go. I'm ready to die." Mendoza then asked, "Do you have a problem with that?" Doyle responded, "No. No problems." Mendoza yelled, "You want to fight with me?" Doyle said, "No, we don't want to fight. I just want to talk for a minute."

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<sup>1</sup> In military hours, the BWVs displayed 18 hours, 35 minutes, and 28 seconds as 18:35:28. This would be the equivalent of 6:35 p.m. in the actual time of 11:35 a.m. The BWVs were ahead by approximately 7 hours. All time references will be in actual, real time, unless otherwise noted.

Mendoza then pushed the sliding glass door fully open and quickly stepped out with an extended large, bladed sword pointed forward. Mendoza advanced towards the officers and yelled, "Shoot me. Shoot me motherfucker. Shoot me!"



*Figure 1: The outwardly extended sword after Mendoza opened the sliding glass door.*



*Figure 2: Mendoza exiting the residence.*

Doyle and Radke unholstered their firearms and turned to run away from Mendoza. As their backs were turned, Mendoza could be heard yelling as if he was trailing behind them. Doyle ran out and broadcasted, “15 Adam 44 we need a backup, 415 man with a knife.”

The officers made their way to the middle of the street and Mendoza chased after them while armed with the sword. Once out on the street, officers made several commands to “drop the knife.” Mendoza kept following while throwing metal items at them and yelling incoherently. The officers continued distancing themselves from Mendoza while taking cover behind vehicles. Mendoza kept approaching the officers, waved the sword around, hit the ground with the sword, and threw items at them.<sup>2</sup>



*Figure 3: Mendoza throwing items that rolled toward the officers.*

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<sup>2</sup> According to the Department of Operations (DOC) log, at 12:04 p.m., officers requested help regarding a male suspect in the middle of the street armed with a sword.



*Figure 4: Mendoza threw another item that bounced off one of the vehicles and rolled past the officers.*

Throughout the encounter, Mendoza was yelling incoherently and swinging the sword around. He then returned to the residence and was out of view. While the officers were waiting for additional units to arrive, a neighbor exited and approached the residential gate. Doyle yelled, "Get back inside your house. Get inside." The neighbor turned around and went back inside the residence.



*Figure 5: The neighbor who exited the residence and then went back inside.*

Additional units arrived and established a perimeter. Doyle and Radke updated the officers on what had transpired. At about 12:13:54, someone said, “Suspect’s coming out. That the guy?” Doyle confirmed and said, “That’s him.” Doyle was behind a patrol vehicle and Mendoza was not visible on the BWV.

At 12:14:40, Doyle repositioned himself at the front passenger side of another patrol vehicle and stood behind Officer Evelyn Diab. He reached into the front passenger area of the vehicle and accessed the Public Address (PA) system. Doyle gave Mendoza commands to stop and to get on his stomach. As Doyle was giving commands, Diab said, “He’s shaking his head ‘no.’” The top of Mendoza’s head was visible in the BWC shortly before shots were fired at 12:15:34.



*Figure 6: The top of Mendoza’s head.*

Other officers approached Mendoza, searched him, and began administering CPR. A rescue ambulance (RA) was first visible on Doyle’s BWV at 12:26 p.m.

### ***Harty BWV***

Officer Daniel Harty’s BWV showed that that he arrived approximately six minutes after Mendoza retreated into his residence. Harty retrieved a rifle<sup>3</sup> from the back of a patrol vehicle. Harty turned to other officers and asked, “Who is our suspect? Give me a description?” Someone responded saying, “Male. Asian. Blue shirt.” Harty then positioned himself behind the interior part of an opened patrol vehicle driver door. He held the rifle and pointed it forward in the direction of the street where Mendoza was seen earlier.

While in position, Harty said, “We have a cracked door right there. I think there’s gotta be a camera.” Harty moved his left hand from the rifle out of camera frame and back onto the rifle as

<sup>3</sup> Harty was armed with a department-issued black 5.56 x 45 Colt Firearms Model M16A1 semiautomatic rifle, serial No. 5435682. The rifle was equipped with a Trijicon ACOG 4x32 scope.

if to indicate to something to his left. In the background, radio communications were captured, a helicopter could be heard overhead, and multiple officers were communicating with each other.

Through the radio communications, the helicopter pilot could be heard broadcasting Mendoza's whereabouts in the backyard of his home. The pilot also announced that there were employees working at a nearby elementary school that were going to be evacuated.<sup>4</sup> Later, the pilot announced that Mendoza had, "Just armed himself with a larger sword, machete-style. He's changed clothes. He now has camouflage, sleeveless vest, and a camouflage hat as well. In the backyard. Throwing things around breaking stuff."

Approximately ten minutes later, Harty said, "Coming out" and, "I got him. I got him." The pilot broadcasted that Mendoza was on the "street and armed with a machete." Harty said, "He's got a machete. He's banging on a pan."

While Mendoza was approaching the officers, the BWV captured audio of unidentified officers discussing preparations for the use of a 40-mm non-lethal projectile. Simultaneously, an unidentified officer asked, "Sarg, how far are we gonna let him go?" Another unidentified officer said, "White SUV is the threshold." This was repeated among several unidentified officers.



*Figure 7: Mendoza approaching as officers discussed less lethal force and deadly force threshold.*

Seconds later, Harty said, "I got a good shot on 'em" and asked, "Hey, who is our DCO?"<sup>5</sup> In the background, an unknown officer said, "Bring him up here. [Unintelligible] forty up here." Another unidentified officer asked, "Sarg, how far are we gonna let him go?" An unidentified

<sup>4</sup> Fair Avenue Elementary school was located less than half a mile northeast from Martinez's home.

<sup>5</sup> The Designated Cover Officer (DCO) is the officer who is designated to use deadly force if necessary.



officer said, “White SUV is the threshold” and it was repeated by several unidentified officers. Harty continued to reference a DCO, and said, “Let’s pick a DCO between the three of us,” and asked, “Who is DCO?” Harty’s questions went unanswered as Mendoza continued approach the officers while making erratic movements with the sword.



*Figure 8: Mendoza making erratic movements.*



*Figure 9: The 40-mm was eventually visible in the driver-side mirror.*

Mendoza continued in a straight line directly towards the officers despite several commands to “stop.” Harty then said, “I got ‘em. I got ‘em. I got ‘em.”



Figure 10: Mendoza's location right before shots were fired.

As Mendoza continued to move forward towards the officers, Harty's rifle recoiled indicating that it was fired and Officer Jonathan Suarez-Alvarez's 40-mm expelled smoke indicating that it was also fired. After officers reported that Martinez "was down," Harty said, "I got one shot. Right chest." Other officers then approached Mendoza who was lying still in the street.



Figure 11: Mendoza and the referenced white SUV.

Harty retreated and stored his rifle in the back of a patrol vehicle. His BWV was then turned off.

## *Suarez BWV*

Officer Jonathan Suarez-Alvarez was one of the officers on scene and armed himself with a less-lethal 40-mm launcher. When he approached the front line of officers, Mendoza was already in the middle of the street making erratic movements.



*Figure 12: Mendoza making erratic movements.*

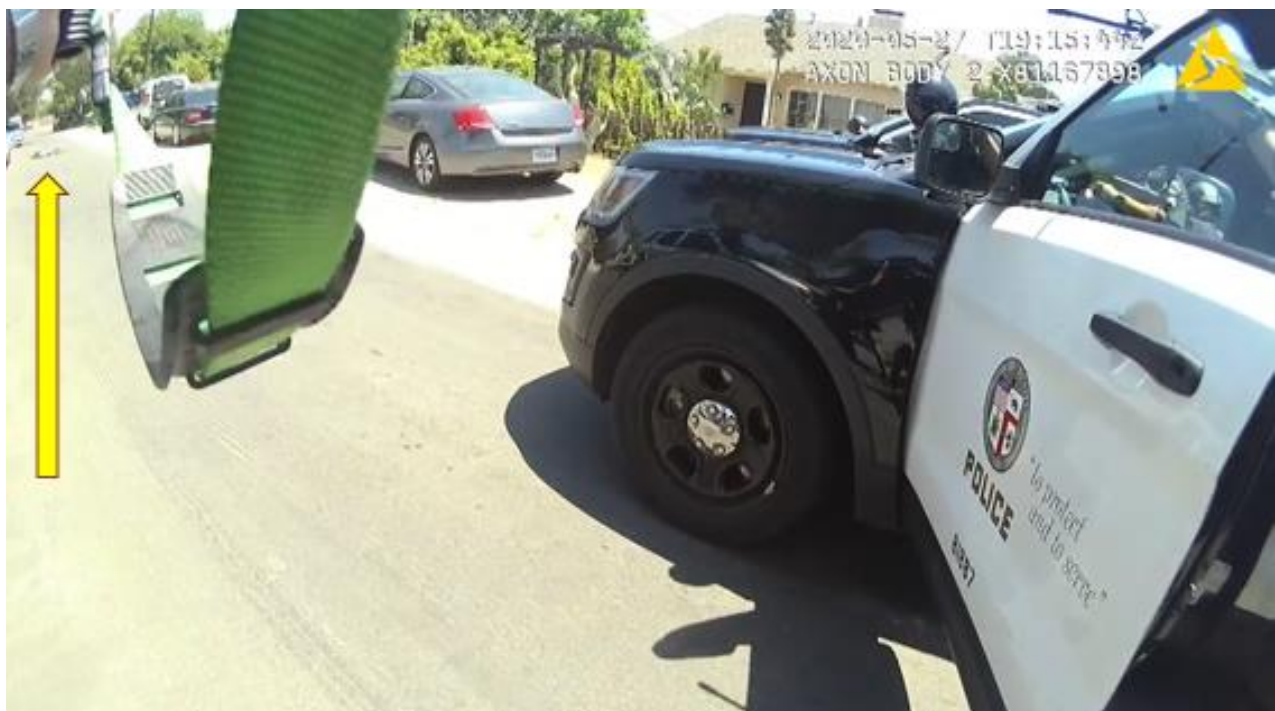
Shortly thereafter, unidentified officers discussed designating a white SUV as the “threshold.” An unidentified officer asked, “Who’s got the forty?” Suarez responded, “I have it right here, sir.” An unidentified officer said, “Forty up, forty up, forty up,” and Suarez moved to the front of the line. He then said, “Got it.” Suarez positioned himself directly to the left of Harty and outside of the opened driver door.

Doyle continued to give commands over the PA system to “Get on the ground. Drop the sword and get on your stomach.” Over the radio communications, someone referenced “fire response.” Other officers continued to tell Mendoza to “drop it.”

After Suarez was in position, the BWV captured Mendoza swaying the sword overhead and in front of him while approaching officers. Someone shouted, “Hit him.” Mendoza raised the sword over his head and Suarez then discharged one 40-mm shot.



*Figure 13: Mendoza holding a raised sword before the shots.*



*Figure 14: Mendoza immediately after the shots.*

Mendoza fell to the ground and did not move. Suarez did not further engage with Mendoza and his BWV was turned off.

### ***Widman BWV***

When Sergeant Daniel Widman arrived on scene, he discussed the developing scene with Sergeant Jason Hardaker. They were positioned at the back of a patrol vehicle while Harty retrieved his rifle and made his way to the driver's side door. Widman directed his attention to the surrounding officers and said, "Let me get less lethal ready to go. Get me a forty." Suarez responded saying, "I got a forty, sir."

Widman repositioned himself from the back of the patrol vehicle to the passenger side (opposite Harty's area of the vehicle) and directed Doyle to get on the PA system to start giving Mendoza orders. Widman also requested for two 40-mms to be ready.

BWV captured Mendoza as he approached the officers. Widman said, "Don't let him get any closer. Ok. [Shots were fired].<sup>6</sup> 40 ready." Mendoza was shot while Widman was in motion and the incident was not captured on his BWV.



*Figure 15: Mendoza advancing towards officers.*

Someone reported that the "suspect was down," and Widman asked if it was a forty that was fired. After Harty advised that he deployed his firearm, Widman escorted Harty away from the scene. He directed Harty to secure the rifle in a patrol vehicle. Once the rifle was secured, Widman turned his BWV off.

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<sup>6</sup> The shots were fired while Widman was mid-sentence as indicated.

## Witness Statements

### ***Firefighter-Paramedic*** [REDACTED]

At 12:15 p.m., officers broadcasted a request for an RA to respond. At 12:17, the Los Angeles Fire Department (LAFD) RA received notice to respond. At 12:25 p.m., LAFD Firefighter-Paramedic [REDACTED] arrived and saw officers performing CPR on Mendoza. Sanders said that another firefighter took over and administered CPR. Sanders put Mendoza on an electrocardiogram (EKG) monitor and found that the heart rhythm showed no electrical activity. Mendoza had no pulse and was not breathing. Sanders said that he saw that Mendoza had a single gunshot wound to the left side of his chest. Sanders assessed Mendoza and based on his observations, determined the time of death at 12:28 p.m.

### ***Neighbor*** [REDACTED]

A neighbor, [REDACTED], was at home when her husband advised her that Mendoza had damaged their car. She called the non-emergency line, and the two police officers came and spoke to her.

After speaking to her, the officers went to Mendoza's residence. About a minute or two later, she saw the officers run out and Mendoza was following them with a sword in one hand and a smaller knife in the other. Mendoza made his way to the street and hit the ground with the items. He then turned back around and went back inside his residence.



Figure 16: [REDACTED] captured Mendoza with the sword as he was returning to his residence.

Shortly thereafter, █████ said she heard police sirens and a helicopter. When she looked out through her window, she saw that Mendoza now had the sword in one hand and a round object in the other. █████ said that Mendoza started “charging” towards the officers in a “speed-walk” fashion. █████ said that Mendoza was “coming up at them fast” and was swinging the sword.



Figure 17: █████ captured Mendoza with the sword in his right hand and a round object in his left hand.

As Mendoza approached the officers, █████ was no longer able to see him. She heard one shot but did not witness the shooting.

### **Neighbor █████**

█████’s husband, █████, also spoke to the responding officers about the vandalism to his vehicle. He said that he was not concerned about the damage but wanted officers to contact Mendoza because Mendoza looked “scary,” and they were in a community where children play outside.

After the officers left their residence, ██████ heard a commotion outside and saw that Mendoza was behind the responding officers with a sword. He could not provide too many details because he was going back and forth from the window to attending to his children within the home. ██████ heard the officers saying “stop” and giving other commands.

Subsequently, ██████ saw Mendoza running towards the police. ██████ heard the officers give Mendoza several commands to stop and put the sword down. ██████ then heard a pop but did not witness the shooting.

### **Neighbor ██████.**

Another neighbor, ██████, was working from home at the time of the incident. Her husband and children were also home. Her husband informed her that Mendoza was accusing another neighbor of breaking into Mendoza’s car. She said, “I looked out my kitchen, and I saw him coming out with a big machete and swinging and yelling at the cops... And there was two cops, and they ran out.” She explained that Mendoza had, “Chased the cops down” and said, “I heard him say something like, ‘I’d rather die than go with you guys,’ or something like that. He was just screaming a lot... He was really aggressive.”

She later heard a helicopter and looked out of her window again and saw Mendoza. She said, “I saw him when he went out again. And it looked like he kind of crossed his heart, and then he kind of started swinging the machete, and I think he hit those cars that were parked in front – or right next – in front of the – our next-door neighbor's house. And I heard the cop say to stay back or stop – because he was like charging them.” ██████ said, “I don't know if he ran fast or walked fast, because, you know, the next time I look, he was already way over here when – I mean – I don't know. That was kind of fast.”

██████ stated that she ducked down and heard the gunshot. When she looked out again, she saw that an officer was performing CPR.

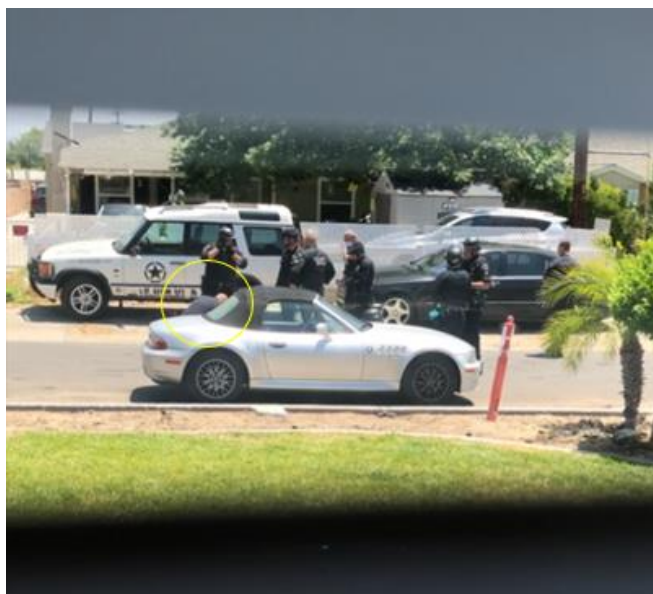


Figure 18: The view of an officer performing CPR outside of ██████’s home.



**Neighbor [REDACTED].**

Another neighbor, [REDACTED], was at home when she heard a helicopter outside. She said, “I heard the helicopter saying like something along the effects of, ‘Give yourself up.’ Or something along those lines.” She looked out her window and said that she saw “a man with a machete in one hand and I don't – something that appeared to be like it had an antenna. So, on his left hand, he had a machete. And on the right hand, he had something. I don't even know what it was. It was round, and it appeared to have like an antenna on it, something pointy.” [REDACTED] said that the sword appeared to be two feet long and Mendoza was making figure eights in front of him with it.

[REDACTED] said that her window was so close to Mendoza that, if he turned, the two would have made eye-contact. She said that she was, “Afraid for my life at that point, which is why I walked away from the window.” A few seconds later, she heard one quick shot. When she looked out again, she saw a group of about ten officers approaching Mendoza. She did not witness the shooting.

**Neighbor [REDACTED].**

Another neighbor, [REDACTED], was working from home when he heard a commotion outside. He looked out his window and saw that Mendoza was walking around with a “round thing” and a sword. [REDACTED] said Mendoza was walking “kind of fast.” [REDACTED] was afraid for himself and his dog, so he then decided to stay away from the window.

[REDACTED] said he heard officers give Mendoza several commands and that Mendoza sounded distressed. He then heard what sounded to be a bean bag shot. He did not witness the shooting.

**Neighbor [REDACTED].**

Another neighbor, [REDACTED], heard a helicopter and went outside to her gate. While outside, she saw Mendoza out on the street waving a sword and “kind of fast walking” towards police officers. [REDACTED] said that Mendoza had the sword raised at shoulder-level.

After seeing Mendoza and the police, she turned to go back inside her residence. After she had turned, she heard a single “pop.” Once she was inside, she looked out and saw that there was an officer giving Mendoza CPR.

[REDACTED] did not witness the shooting

**Neighbor [REDACTED].**

Another neighbor, [REDACTED], was working from home when she heard a nearby helicopter. She opened her door a little bit and saw “a ton of police.” She heard them say, “Come out with your hands up,” “Get down on the ground,” and, “Put the sword down and put – get down on the ground.” [REDACTED] could not see who they were talking to because she was looking through the leaded glass portion of her front door window. [REDACTED] said that the officers continued to say,

“Put the sword down.” Finally, she heard the police say, “Don’t come any closer” a couple of times and then she heard gunshots. She thought that she might have heard three gunshots. She did not witness the shooting

After the shooting, ██████ saw Mendoza’s feet while he laid on the ground. ██████ believed that the police were about 15-20 feet away from Mendoza when they discharged their firearms. Officers approached Mendoza and handcuffed him. ██████ said that “At some point, I saw them turn him over and I think – and started CPR.” The officers continued to give CPR until the firefighters arrived.

### Scene Description

The shooting occurred at approximately 12:15 p.m. in the middle of the street in front of ██████ Avenue within the City of North Hollywood. Elmer Avenue runs north and south with a single lane of traffic in each direction and vehicle parking along the east and west side of the street. The neighborhood consists of single-family residences. The environmental conditions were dry with clear skies.

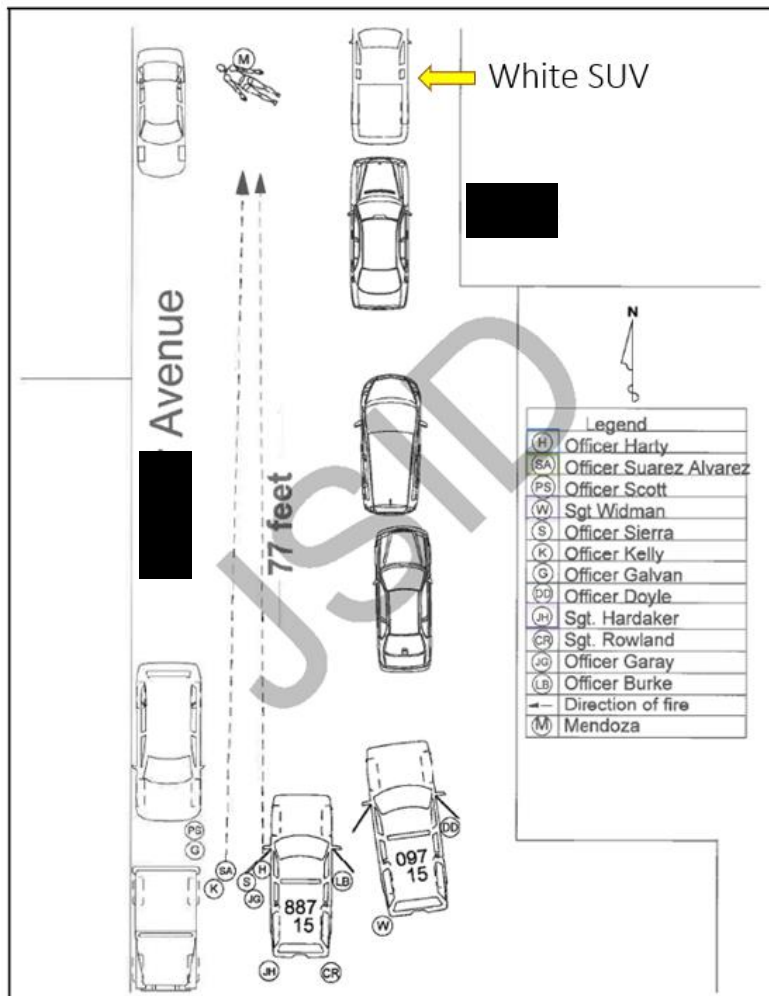


Figure 19: Distance between Mendoza and the officers.

A forensic team responded and conducted an examination of the scene for ballistic impacts, trajectories, and projectiles. Evidence was collected from the scene, including a discharged cartridge case from Harty's rifle, a discharged 40-mm less-lethal impact case, a sword, a metal disc, a box cutter with a folding blade, a rock with a face and cross drawn on it, a badge, and other miscellaneous items.



Figure 20: Mendoza's sword as recovered at the scene. The blade was measured as 21.5 inches long.



Figure 21: The metal disc.

## Autopsy Report

The coroner concluded Mendoza's death was caused by a gunshot wound to the chest. A toxicological analysis revealed that Mendoza had methamphetamine in his system.

The coroner did not observe any mark consistent with a 40-mm projectile impact.

## Digital In-Car Video System (DICVS)

Only one police vehicle DICVS camera was in a position to record the shooting. After Mendoza exited the residence, the footage showed that he hit the ground with the sword, pointed at officers with the sword, swayed it in front of his chest, and swung it in front of him over his shoulder. Mendoza consistently took a bladed stance position.



*Figure 22: Mendoza swinging the sword.*

At one point, Mendoza turned to walk back towards his residence, then quickly pivoted and reapproached the officers. Several officers gave Mendoza commands to stop and drop the sword. He continued to advance towards officers and swung the sword by his side. Right before Mendoza was shot, he held the sword raised above his head.



*Figure 23: Mendoza with the sword pointed upwards above his head before he was shot.*

## **LEGAL ANALYSIS**

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) &(B).

Deadly force shall be used “only when necessary in defense of human life,” and officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(a)(2).

“A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code section 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for

occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

This shooting occurred in a suburban neighborhood, in the middle of the week, and in the middle of the day. It was a clear, sunny day and there was a neighboring elementary school. Several neighbors were working from home due to COVID-19 restrictions.

In this case, when Harty arrived at the scene, he joined a large contingent of LAPD officers at the location, each given various tasks. Harty's task was to be prepared to use lethal force if needed. Radio traffic and briefings at the scene had made all officers aware that Mendoza had previously used potentially deadly force against LAPD officers by chasing them with a sword and throwing metal objects at them. Only by fleeing the location did the officers avoid potential deadly injury. Responding officers were also aware that Mendoza had called for officers to shoot him and had exhibited bizarre and dangerous behavior at other times during that day, potentially endangering members of the public as well as LAPD officers.

Upon Harty's arrival at the scene, some members of the public were still present in their homes adjacent Mendoza's home and his path from Mendoza's home to the LAPD command post. Harty deployed behind a patrol vehicle with his duty rifle as a designated lethal force officer, while other officers were assigned to use less-lethal 40-mm rifles. At this time, Harty's BWV recorded radio traffic from the airship overhead describing Mendoza arming himself with a sword and thrashing and throwing items.

It soon became apparent that Mendoza was approaching the officers and that he was deliberately advancing. █████ described Mendoza "charging" at officers and walking in a "speed-walk" fashion. █████ said that Mendoza was running towards the officers. Several other neighbors described Mendoza's approach as "fast-walking" and that they were afraid of the developing situation.

As Mendoza closed the distance between himself and the officers, he ignored all commands to stop, put down the sword, and lay on his stomach. While advancing, Mendoza hit the ground with the sword, swung the sword in front of him, and raised the sword above his head. Mendoza also used the sword to hit several cars and pointed it towards the officers while he moved forward. At various times, he held a metal disc in front of him with his extended arm at or above shoulder length.

As the scene developed, it would be reasonable for Harty to consider the potential danger that Mendoza posed to anyone in the neighborhood in light of the earlier assault on the responding officers. As Mendoza continued to advance towards the officers, he became a greater threat to their safety because he was actively using the sword, had a defensive shield, and was making erratic movements.

By the time Mendoza had made it to the white SUV, he was approximately 77 feet away from Harty and showed no signs of retreating nor stopping. Mendoza did not slow down, did not drop any of the items, and ignored all officers' commands. He was a physically able male who could quickly close the distance between himself and the officers while throwing the sword when he

advanced towards officers with the sword over his head. Under these circumstances, it cannot be proved beyond a reasonable doubt that it was not reasonable for Harty to believe that he and others were in imminent danger of great bodily injury or death and that the use of deadly force was not necessary.

## **CONCLUSION**

We conclude that there is insufficient evidence to prove Harty's use of force was unreasonable.