

**Additional Video Evidence Related To The
Fatal Officer Involved Shooting of
Frederick Holder**

Los Angeles County Sheriff's Department

**Deputy Christopher Conger #606637,
Deputy Javier Fierros #626564,
Deputy Jackie Rojas #600608**

J.S.I.D. File #21-0259



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

September 6, 2023

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
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: Additional Video Evidence Related to The Fatal Officer Involved
Shooting of Frederick Holder
J.S.I.D. File #21-0259
L.A.S.D. File #021-06937-0455-013

DATE: September 6, 2023

On December 5, 2022, The Justice System Integrity Division of the Los Angeles County District Attorney's (DA) Office completed its review of the June 23, 2021, fatal shooting of Frederick Holder by Los Angeles County Sheriff's Department (LASD) Deputies Christopher Conger, Javier Fierros, and Jackie Rojas and issued a memorandum with our findings and analysis of that incident (Attachment 1).¹

On May 31, 2023, LASD Homicide Bureau investigators provided the DA's Office with additional body worn video camera (BWV) footage related to this incident. The investigators had been unaware of the footage and had not included it in the original materials they provided to the DA for review.

We have completed our review of the additional BWV. For the reasons stated below, the additional BWV does not alter our conclusion that the deputies acted in lawful self-defense and defense of a third party when they fired their weapons, reasonably believing, based on a totality of the circumstances, that deadly force was necessary to defend against a deadly threat.

ADDITIONAL BWV FOOTAGE

Deputy Adam Villalobos' BWV footage was among the newly provided recordings. He was present during the incident. The remainder is from thirteen deputies who arrived afterward.

According to Villalobos' BWV, he was among the units that initially conducted a traffic stop of the box truck driven by Holder. Holder drives away from the deputies but is forced to a stop by traffic at a red light. Behind the box truck, in line, are several marked LASD patrol cars. Villalobos is fourth in line. Shortly after exiting his car, Villalobos faced the rear of the box

¹ Please refer to the December 5, 2022, memorandum for a comprehensive analysis of the facts and evidence of the incident.

truck, seen in the distance. A rapid burst of gunfire is heard. Villalobos turns and runs behind his patrol car for cover. Seconds later, he runs toward the box truck. A final shot is heard. Villalobos reaches the box truck and stands at the rear passenger side. Villalobos walks to the driver side. Several deputies cluster around the open driver door of the box truck. Holder cannot be seen. Villalobos returns to the passenger side. Another deputy hands him a tactical shield. With the shield blocking the camera's view, Villalobos walks adjacent to the passenger side of the box truck cabin. Several deputies are heard discussing their attempts to remove Holder from the truck cabin. Villalobos discards the shield. Villalobos and other deputies attempt for several minutes to remove a non-responsive Holder from the truck cabin. Minutes later, Villalobos walks to the driver side of the truck. The torch lighter has already been removed from the cabin and is lying on the ground beneath the truck.

Because he was several dozen yards behind the box truck at the time of the shooting, Villalobos' BWV does not depict the involved deputies or Holder's actions at the time of the shooting. Neither does the footage depict the location of the torch lighter inside the truck cabin before deputies removed it after the incident.

The remaining thirteen deputies' BWV depicts the scene after the incident. The footage provides no significant information about the shooting. It primarily depicts deputies putting up yellow caution tape, walking the scene, canvassing for witnesses and surveillance cameras, and driving in their patrol cars.

CONCLUSION

Based on the foregoing, the additional BWV footage does not alter our conclusion, detailed in the December 5, 2022, memorandum, that the deputies acted in lawful self-defense and defense of a third party when they fired their weapons, reasonably believing, based on a totality of the circumstances, that deadly force was necessary to defend against a deadly threat.

ATTACHMENT 1

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
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: Fatal Officer Involved Shooting of Frederick Holder
J.S.I.D. File #21-0259
L.A.S.D. File #021-06937-0455-013

DATE: December 5, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 23, 2021, fatal shooting of Frederick Holder by Los Angeles County Sheriff's Department (LASD) Deputies Christopher Conger, Javier Fierros, and Jackie Rojas.

We have concluded the deputies acted in lawful self-defense and defense of a third party when they fired their weapons, reasonably believing, based on a totality of the circumstances, that deadly force was necessary to defend against a deadly threat.

The District Attorney's Command Center was notified of this shooting on June 23, 2021, at approximately 10:50 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LASD Lieutenant Brandon Dean.

The following analysis is based on video footage, reports, recorded interviews, photographs, medical records, and voluntary statements from Deputies Conger and Fierros. Deputy Rojas did not provide a voluntary statement. These materials were submitted to this office by the LASD Homicide Bureau. The involved deputies were not equipped with body worn video (BWV). Only Deputy Conger's patrol car was equipped with a dash camera.

INTRODUCTION

On June 23, 2021, at approximately 9:25 a.m., Holder stole a parked box truck from downtown Los Angeles. At 9:52 a.m., an LAPD airship reported to LASD that the truck was driving recklessly near the city of Norwalk.¹ Multiple LASD units responded to the indicated location. When deputies attempted a traffic stop, Holder initially pulled over. Deputies commanded Holder to exit the truck. Holder ignored them and instead, after several minutes, abruptly drove

¹ The airship officers and responding deputies were apparently unaware that the truck was stolen. This came to light after the incident, and investigators later recovered footage of Holder stealing the box truck after its owner parked it on the street and left it briefly unattended.

away from the location at high speed. Holder traveled about one block through a residential neighborhood before getting stuck in traffic at a red light. While the truck sat at the red light, Deputies Conger, Fierros, and Rojas walked toward it from behind. Fierros and Rojas approached the driver side door with their 9mm service pistols drawn as Conger approached the passenger door holding a rifle. Dash camera footage shows Fierros open the truck's driver side door. Fierros appears to jump back as though startled and opens fire. Fierros and Rojas backpedal and continue to fire into the truck as Conger fires from the passenger side. By this point, the traffic light has turned green and surrounding traffic has driven away. The truck slowly rolls forward several car lengths and collides with a traffic pole.

Holder suffered 11 gunshot wounds and, at 10:14 a.m., was pronounced dead at the scene. Fierros stated to investigators that he fired at Holder after he opened the driver door and saw Holder pointing a pistol at him. Conger stated that he approached the passenger door, saw Holder pointing a pistol at Fierros, and opened fire in response. Rojas did not provide a voluntary statement.

Deputy Jose Pimentel arrived moments after the incident. He stated to investigators that he observed Holder unconscious inside the truck, slumped across the driver and passenger seats. Pimentel saw what he perceived to be a pistol lying next to Holder's right arm, in the space between the seats. Pimentel removed the item—a metallic pistol-shaped torch lighter with apparent blood on it—and placed it on the ground underneath the truck.



Figure 1: Photo of pistol-shaped lighter that Pimentel removed from the truck cabin.

FACTUAL ANALYSIS

Video

Conger's Dashcam

Conger equipped his patrol car with his own non-LASD dash camera. It captured portions of the incident. There is no audio. The footage begins during the traffic stop. Conger's patrol car is seen directly behind the box truck, which is parked along a curb close to a four way stop, in a residential neighborhood of single family houses. After several minutes, the truck abruptly starts and rapidly drives away. Conger and three other patrol cars give chase at a high rate of speed for about one city block, until the truck is forced to a stop in heavy traffic, at a red light at Piuma Avenue and Alondra Boulevard.

Fierros' patrol car is first in line behind the now-idle truck, followed by Conger's. Fierros exits his car pointing his service pistol at the truck as Conger exits his car and walks into view armed with a rifle. Rojas appears shortly after with her service pistol drawn. Fierros and Rojas approach the driver side of the truck as Conger approaches the passenger side.



Figure 2: Dashcam still showing the three involved deputies moments after the box truck stops at the red light.



Figure 3: Dashcam still showing deputies approach the truck.

Fierros reaches the driver door, opens it, and jumps back as if startled and appears to open fire immediately, as do Rojas and Conger. The three deputies fire their weapons and back pedal away from the truck. It is not clear from the footage whether Fierros or Conger is the first to fire. Meanwhile, the traffic light at Alondra Boulevard turns green and surrounding traffic proceeds forward. A few moments later, the truck slowly rolls forward with the deputies jogging alongside it, until the truck appears to collide into something and comes to a stop several car lengths closer to Alondra Boulevard. The deputies approach the driver and passenger sides of the truck again but are now largely out of view of the camera, which is blocked by Fierros' patrol car in the foreground.



Figure 4: Dashcam still showing Fierros open the truck door. (Rojas is out of view, to Fierros' right.)



Figure 5: Dashcam still showing the moment that Fierros shoots, after opening the truck door and jumping back, apparently startled. Rojas is out of view, standing to his right. Deputy Chavez runs toward the box truck and appears to flinch in response to the gunfire.

Cell Phone Video

Investigators recovered video footage of the incident apparently captured by someone driving by and uploaded onto the internet. The footage begins after the box truck was rolling forward. Fierros and Rojas are seen jogging after the truck as it rolls. Fierros fires one shot into the driver side of the cabin. The truck's front driver side wheel jumps a raised concrete center median and slowly crashes into a traffic pole. Fierros jogs up to the rolling truck and opens the driver door. He points his pistol into the driver side of the cabin, holding the door open and walking along with the truck until it crashes to a stop and the video ends. The sound of Fierros' gunshot can be heard in the video. The deputies' commands, or communication from Holder, if any, cannot be heard.



Figure 6: Cell video still showing Fierros fire his weapon.

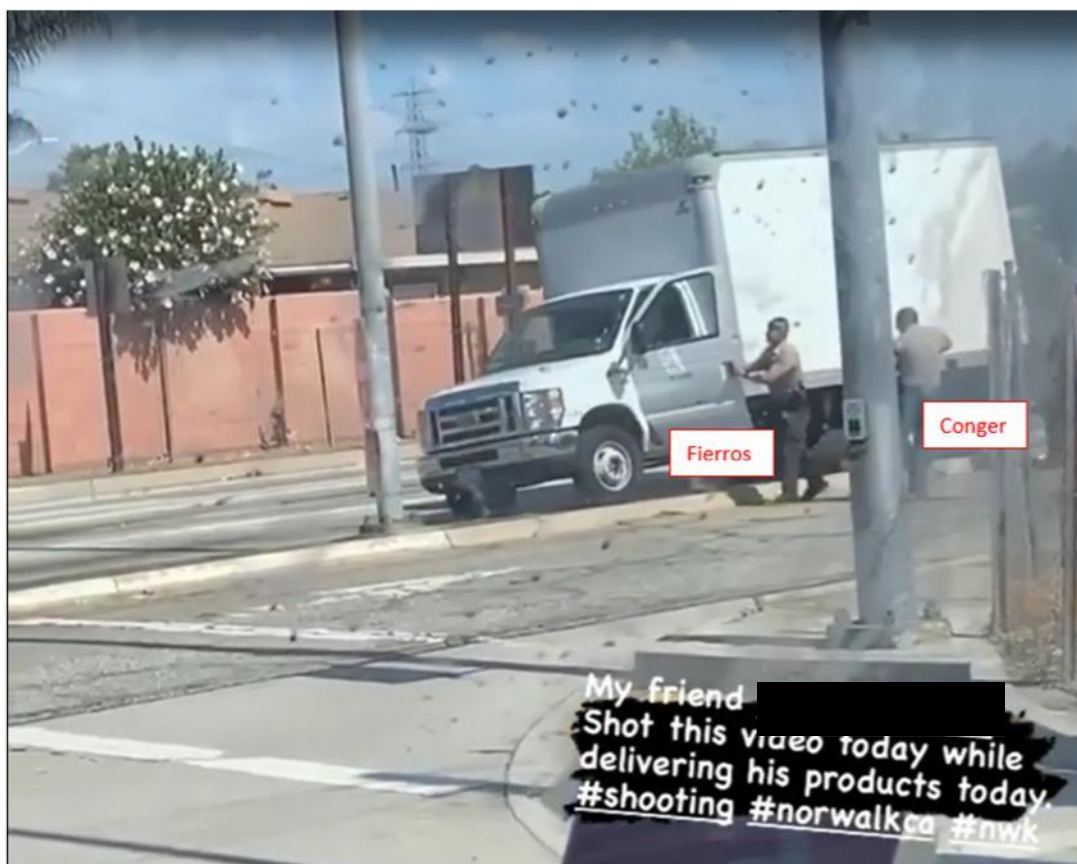


Figure 7: Cell video still showing Fierros holding the driver door open just before the truck crashed.

Body Worn Video

The deputies present during the incident, including the involved deputies, were not equipped with BWV. Three sergeants, who responded afterward, were equipped with BWV and recorded footage that shows the deputies attempting to remove Holder from the truck and render medical aid. The footage also shows Deputy Pimentel apparently recover the torch lighter from the cabin and place it on the ground underneath the truck. The view, however, is obstructed—shot from behind the deputy—and does not show where in the cabin the torch lighter was located.

Autopsy

Holder was pronounced dead at the scene, at 10:14 a.m., by fire department personnel. An autopsy was performed by Doctor Joseph Vallone of the Los Angeles County Coroner's Office. Doctor Vallone ascribed the cause of death to gunshot wounds. Holder suffered 11 gunshot wounds, detailed as follows, in no particular order: (1) entry wound to the right chin; (2) through and through wound to the left forearm; (3) entry wound to the left upper chest; (4) graze wound to the left shoulder; (5) entry wound to the front right forearm; (6) entry wound to the right upper lateral chest, travelling back to front; (7) entry wound to the right upper lateral chest; (8, 9, and 11) entry wounds to the rear right arm; and (10) graze wound to the front right arm. Toxicology testing revealed the presence of cocaine, marijuana, and methamphetamine in Holder's blood.

Firearms Evidence

After the incident, Conger's duty .223 rifle contained one round in the chamber plus seven rounds in an attached magazine that, Conger stated, contained 18 rounds before the incident. Deputy Fierros' duty 9mm pistol contained one round in the chamber plus 15 rounds in an attached 17 round capacity magazine. Fierros stated that he emptied one full magazine during the incident and reloaded. Deputy Rojas's duty 9mm pistol contained one round in the chamber plus 13 rounds in an attached 17 round capacity magazine. Based upon this, Conger likely fired ten to 11 rounds, Fierros likely fired 19 to 20 rounds, and Rojas likely fired three to four rounds.

Civilian Witnesses

Investigators interviewed two motorists who were stopped at the red light when the incident occurred. The first stated that he saw deputies with guns approach the truck. He could not see the driver. He heard the deputies yelling unintelligible words, followed by several gunshots, causing him to duck down in his car until the shooting stopped. He did not see what caused the deputies to fire. The second motorist gave a similar account. He heard the deputies yelling "Stop!" several times before the shooting started. He also did not see what caused the gunfire.

Deputy Statements

Christopher Conger

Deputy Conger gave the following voluntary statement. Conger was on duty near Alondra Boulevard and Studebaker Road with his partner, Deputy Steven Douma, who was in a separate patrol car. Conger heard over the radio that an LAPD airship was nearby pursuing a reckless driver (later identified as Holder) in a Ford box truck. Conger and Douma located the truck in a nearby neighborhood. Douma radioed to Conger that he was going to initiate a felony traffic stop. Douma activated his lights and sirens and the truck stopped. For "several minutes," Conger and Douma, now joined by Deputy Villalobos, commanded Holder to exit the truck with his hands up. Holder ignored them and sped away on Piuma Avenue at a high rate of speed, at one point driving on the wrong side of the road. A short distance later, the truck was forced to a stop due to "heavy traffic" at a red light. The truck was five to six cars from the intersection. While the truck was stuck at the red light, the deputies formed a plan to remove Holder from the truck.

Conger approached on the passenger side while Fierros and Rojas approached the driver side. Fierros yelled several times for Holder to show his hands. When Conger was within three feet of the passenger door, he saw Holder "sitting in the driver's seat. He was looking to his left—over his left shoulder out the driver's side window, and he was holding his right hand up against his chest holding what I believe[d] to be a small pistol. It was silver colored and metallic, and the way he was holding it [pointed toward the driver door] I believed he was about to ambush my partners who were coming up on the driver's side door." Seeing this, Conger yelled, "Gun! Gun! Gun!" and fired ten rounds at Holder. He heard the sound of gunshots from the driver side of the truck. Holder "slump[ed] over to the right ... the truck began moving slow." The truck slowly rolled several car lengths and crashed into a "large pillar" in the center median, which

divided the two lanes of traffic on Piuma Avenue. Deputies initially attempted to remove him from the cabin to render aid, but, seeing that he appeared deceased, discontinued those efforts and left him inside. Conger did not see Pimentel recover the torch lighter.

Javier Fierros

Fierros' patrol car was the first unit behind the truck when it stopped at the red light. Fierros gave several "call outs" to the driver to exit the truck. He yelled for him to roll down his window. Fierros could not see the driver. He, Conger, and Rojas decided they would approach the truck to prevent it from driving away. As Fierros approached the driver door, he yelled for Holder to put his hands on the steering wheel. The window was rolled up. He could not see Holder until he was "right up close." Holder stared at him through the driver side window. He was visible only from the neck up because of the height of the truck. They made eye contact. Holder had a "blank stare." Fierros thought he looked like he was under the influence "of something." Holder said nothing.

Fierros described what happened next: "I opened the door with my left hand and the first thing I saw was a – a firearm pointed right at me ... basically, like a foot away." Fierros stated that Holder held the firearm across his chest with his right hand, pointing it at Fierros. Fierros "backpedaled" and fired at Holder until his weapon was empty. He reloaded his weapon. He heard "other rounds" and thought Holder might be shooting at him. The driver door was "flapping" open and closed, obscuring his view of Holder. Fierros could not tell yet whether he had disabled Holder. Still seeing "a lot of movement" inside the cabin and not able to see Holder's hands or whether he still held the gun, Fierros fired "a few more rounds." Fierros estimated that he fired 19 times in total. Fierros approached the truck as it slowly rolled. He opened the driver door. He saw Holder lying across the driver and passenger seats. Near Holder, in "the middle" of the cabin, lay the "firearm." Fierros believes he was present when Pimentel removed the item from the truck.

Jose Pimentel

Deputy Pimentel gave the following statement. He arrived after the incident and saw Conger and Rojas "detaining" Holder at gunpoint with the driver side door open. Holder lay across the seats, slumped over. Conger told Pimentel that the "gun" was near the driver's right arm. Pimentel stepped into the cabin. He saw Holder's right arm hanging down in the space between the seats. He saw what looked like the butt of a gun "right next to [Holder's] arm." He realized, after picking up the item, that it was too light weight to be a gun. He removed it from the cabin and placed it on the roadway beneath the truck. The deputies briefly attempted to render aid to Holder but discontinued their efforts when it became apparent that Holder was deceased.

THE LAW

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 to 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.” Penal Code section 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) & (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). Moreover, “[a] peace officer who makes or attempts to make an arrest need not retreat, or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested.” Penal Code section 835a(d).

ANALYSIS

The involved deputies received a report of a reckless driver (later identified as Holder) in a box truck. Conger and his partner initially attempted a felony traffic stop of the truck. For several minutes, they commanded Holder to exit the truck and surrender. Holder ignored them and drove away at high speed through a residential neighborhood. Deputies Conger, Fierros, and Rojas caught up to the truck one block later when it was forced to a stop by traffic at a red light. The three deputies decided that they would attempt to remove Holder from the truck while it was stopped, to prevent further reckless driving. The deputies approached the truck from behind. Its doors and windows were shut. Their path of approach and the truck’s elevated ride height largely concealed Holder.

Fierros stated that he could see Holder only from the neck up. Holder stared “blankly” at him. Fierros opened the driver door and was startled to see that Holder was pointing at him what appeared to be a firearm from a distance of one foot. Holder held the object across his chest with his right hand. Fierros stated that he could not see Holder’s hands, or anything below his neck, prior to opening the door. Fierros immediately responded by firing his pistol at Holder until it was empty. Fierros reloaded and heard other gunshots but did not know who was firing. He stated that he continued to see movement inside the truck and did not know if Holder was injured. He could not see whether Holder still held the gun because the truck’s door was swinging open and shut as the truck rolled forward. Fierros fired at least one more round, until, he stated, he could tell that Holder was disabled.

Conger gave a similar account. In particular, Conger stated that he saw Holder facing toward Fierros and pointing at him what appeared to be a firearm, holding it across his chest with his right hand. Rojas did not provide a voluntary statement, but video footage shows that she was right next to Fierros when he began firing. The footage appears to show her discharge her duty weapon a moment later.

Fierros’ and Conger’s statements are corroborated, first, in their similarity; second, by Conger’s dash cam footage; and third, by the torch lighter recovered from the truck cabin. In their statements to investigators, Fierros and Conger gave identical descriptions of what Holder did with the torch lighter—held across his chest in his right hand, pointing at Fierros. Moreover, the video footage shows Conger open the driver side door and jump back as if startled and immediately open fire. Finally, moments after the incident, Deputy Pimentel arrived and retrieved a pistol-shaped torch lighter—metallic in appearance and covered in apparent blood—from the truck cabin, very close to Holder’s right arm. Body worn video appears to depict Pimentel retrieve the torch lighter and place it on the ground underneath the truck, where investigators later photographed it.

The evidence shows that Holder sat and waited in the truck pointing a gun-like object at the approaching deputies. He was concealed from view until Fierros opened the driver door (and for Conger, until he was within three feet of the passenger door). Holder thus appeared to be ambushing the deputies, and he forced a quick judgment about using force under circumstances that did not permit the use of less lethal resources.

Considering the totality of the circumstances known to the deputies at the time, including those leading up to the incident, it was reasonable for the deputies to believe that deadly force was necessary to defend against an imminent deadly threat. The deputies acted reasonably based on the facts perceived by them at the time, and this conclusion is not altered by the hindsight knowledge that Holder possessed a pistol-shaped torch lighter, not a firearm.

CONCLUSION

For the foregoing reasons, we find that Deputies Conger, Fierros, and Rojas acted lawfully in self-defense and defense of a third party when they used deadly force against Frederick Holder.