

Fatal Officer Involved Shooting of Randy Miller
Los Angeles Police Department

Officer Antonio Velasco #43309
Officer Daniel Nunez #43338

J.S.I.D. File #21-0025



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

September 12, 2023

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 Randy Miller
J.S.I.D. File #21-0025
L.A.P.D. File #F003-21

DATE: September 12, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 28, 2021, fatal shooting of Randy Miller by Los Angeles Police Department (LAPD) Officers Antonio Velasco and Daniel Nunez. We have concluded that Officers Velasco and Nunez acted in lawful self-defense of another at the time they fired their service weapons, reasonably believing, based on the totality of the circumstances, that deadly force was necessary to defend another against an imminent deadly threat.

The District Attorney's Command Center was notified of the shooting on January 28, 2021, at 2:18 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by LAPD Detective David Bunch.

The following analysis is based on the 9-1-1 recording, body worn camera video (BWV), Digital in Car Video System (DICVS), investigative reports, audio recordings and transcripts of witness interviews, crime scene diagrams and photographs, autopsy and toxicology reports, DNA analysis and surveillance video submitted to this office by LAPD Force Investigation Division (FID) Lieutenant Smith, on May 23, 2022.

Officers Velasco and Nunez provided compelled statements to investigators. Those statements were not considered as part of this analysis.

INTRODUCTION

On January 27, 2021, at approximately 10:27 p.m., LAPD Southwest Division Patrol Officers Antonio Velasco and Daniel Nunez responded to a 9-1-1 call of an assault with a deadly weapon, in progress. The caller stated he was seventy-five years old and a man he knew as "Memphis," later identified as Randy Miller, angrily approached him and punched him in the mouth and nose. Miller then walked across the street to a parked Chevy Impala where Miller assaulted [REDACTED], Miller's girlfriend, who was seated inside the car. Miller walked back to the caller

and attacked him again. As Miller turned away and walked towards his girlfriend's car, the caller heard Miller say, "I ought to cut your goddamn throat." The caller requested the police and paramedics and told the operator that Miller was armed with a knife. Witnesses described Miller's attack on his girlfriend as repeatedly striking her in a downward motion.

Officer Velasco and Officer Nunez responded to the location and saw Miller on top of the woman who was on her back spread across the driver and front passenger seats, with her feet protruding from the open car door. They could not see the condition of the woman because she was pinned underneath Miller. Witnesses, however, could see Miller attacking the woman with downward stabbing motions, inside the car. Witnesses heard the officers order Miller, "Put your hands up! Let [us] see your hands!" Witnesses also heard the officers say "He's stabbing her! He's got a knife!"

When Miller did not respond to their commands, both officers fired their service weapons at Miller, killing him. Miller was struck four times in the back, three of the shots were fired by Officer Velasco and one shot from Officer Nunez.

A six- and one-half inch knife with a white plastic handle was found on the floorboard of the car between the front passenger seat and door frame.

FACTUAL ANALYSIS

9-1-1 Call

██████████. called 9-1-1 and stated that "Memphis" punched him in the mouth and broke his tooth. ██████████. told the operator that he was seventy-five years old and in a wheelchair. He provided his location and a brief description of Miller, and he urged the operator to send the police quickly. ██████████. stated, "Hurry! Hurry! He's coming back over here to beat me up some more! A guy named Memphis! He beat me up! He's beating up his girlfriend across the street! He's got a knife! He already punched me in the lip and broke my nose and he's got a knife!" ██████████. told the operator that Miller was "drunk" and that ██████████. was afraid.

Patrol Car Digital in Car Video System (DICVS) Video

Footage from the patrol car's DICVS showed that when they arrived, Officers Nunez and Velasco were in uniform and driving a marked black and white patrol vehicle, with lights and sirens activated.

Officers exited the patrol car and immediately begin issuing commands. Officer Nunez is the first person to appear in the DICVS field of view, his back is towards the camera.

The driver's side door is open and there are two sets of legs visible from outside of the car. (*Figure 1*). Miller is wearing a white sock on one foot and a shoe on his other foot. While patrol car headlights illuminated the inside of the car, the street is poorly lit and the angle of camera does not show what is happening inside the car.

The audio on the DICVS is of lower quality than the BWV, and radio communications from the inside of the patrol car make it difficult to distinguish what is being said by each of the officers as they begin issuing commands.

Officer Velasco moves into the field of view as Officer Nunez moves back to the rear of the parked car and outside of the video frame. Before Officer Velasco comes into the camera frame he is already shouting, “Hey! Hey! . . .” but his exact words are unclear on the audio. Both officers can be heard shouting.

Officer Velasco shoots four times into the car and Officer Nunez fires his service weapon one time, but Officer Nunez’ placement towards the back of the parked car prevent him from being recorded.



Figure 1: Image from the patrol car DICVS prior to the shooting, showing the open car door and Miller’s white shoes.

BWV

Both officers were equipped with BWV that recorded the incident.

Officer Nunez’s BWV shows him exiting the patrol car holding a small flashlight he switches from his right hand to his left hand. [REDACTED]’s red shoes are visible underneath Miller who has a sock on his left foot and a red striped shoe with black stripes on his right foot. (Figure 2 and 3). The audio from the BWV is very clear and as Officer Nunez approaches the car, Officer Nunez is heard saying, “Hey! Hey! Get off! Let me see your hands!” Officer Velasco is heard on Officer Nunez’ BWV saying, “He’s on top of her?” and then shouting “Hey! Let me see your hands! Let me see your hands! He’s stabbing her! Hey! Hey!” Miller is visible only from the back in Officer Nunez’ BWV but he is visibly moving in the car before he is shot.

When Officer Velasco arrived at the location, he did not immediately activate his BWV, although he attempted to do so. His BWV began audio recording after the shooting. In his BWV, Officer Velasco, positioned himself directly in front of the open driver's side door. Miller is seen briefly moving in the car, but his actions are blocked by Officer Velasco's hands and service weapon positioned in front of his body.



Figure 2: Officer Nunez' BWV showing Miller on top of [REDACTED]. She is wearing red footwear.



Figure 3: Officer Nunez' BWV showing Miller on top of [REDACTED]. Miller is wearing a sock and striped footwear.



Figure 4: Velasco's BWV after the shooting. Miller is still on top of [REDACTED].



Figure 5: Officer Battle's BWV showing Miller on top of ██████████, whose arm and foot are visible under Miller's body and circled in red.

Officer Velasco fired a total of three rounds into the open driver's side of the parked car. The shots ranged in distance from seven to nine feet as Officer Velasco moved backwards during the shooting. Officer Nunez, who was positioned to Officer Velasco's left nearest the passenger window on the driver's side, fired one round shattering the left rear window from approximately 10 feet away. (Figure 4 and 5).

Surveillance Video

Investigators retrieved surveillance video from a nearby market. The video shows that at 10:17 p.m., ██████████ parked her car on the street next to the market. Miller opened ██████████'s car door and appeared to hit her and struggle with her while ██████████ walked down the opposite side of the street toward ██████████'s car. Miller stopped attacking his girlfriend and walked away from the car toward ██████████ and confronted him. Miller returned to the car and continued attacking ██████████. Miller left the car a second time to confront ██████████ again. (Figure 6). At 10:19 p.m., for approximately four minutes, Miller appeared to be hitting and kicking ██████████ and attempting to pull her out of the car while standing at the open car door. At 10:24 p.m., Miller entered the driver's side. His physical assault on ██████████ inside the car was not visible on the surveillance footage. At 10:29 p.m. Officers Velasco and Nunez exited their patrol car and shined their lights into the car. (Figure 7).



Figure 6: At 10:18 p.m., Miller (red) crossed the street to confront ██████ (yellow) for the second time.



Figure 7: At 10:29 Officer Velasco and Officer Nunez gave Miller orders to show his hands.

WITNESS STATEMENTS

Witness [REDACTED].

[REDACTED] told investigators he heard Miller coming down the street and that Miller sounded angry. While [REDACTED] was seated in his wheelchair, Miller angrily approached him and “sucker punched” him in the mouth. Earlier that day, [REDACTED] socialized and danced with [REDACTED], Miller’s girlfriend. [REDACTED] believed Miller’s attack on him was motivated by his interaction with Miller’s girlfriend. After the attack, [REDACTED] saw Miller walk over to a car and begin “cussing his girlfriend out.” He saw [REDACTED] open the car door and begin arguing with Miller. Miller walked back to where [REDACTED] was seated and “assaulted” him a second time. Miller punched [REDACTED] multiple times. [REDACTED], who was seated across the street from [REDACTED]’s car heard Miller say, “I ought to cut your Goddamn throat.” However, [REDACTED] was unsure as to whom the comment was directed since Miller was going back and forth between assaulting his girlfriend in the car and assaulting [REDACTED]. [REDACTED] told investigators, “If he just did sucker punching [sic] me and going back and forth to her and me, well, he’s going to cut somebody’s throat.”

[REDACTED] who had visible injuries to his face and lips, stated he was still disoriented from being attacked when he saw police officers’ cars pull up. He told investigators, “I heard yelling from the police officers: ‘Let’s see your hands . . . Put your hands up. Let’s see what’s in your hands!’” before hearing several shots.

[REDACTED] and Miller had known each other for approximately three years and began a dating relationship one year prior to the date of the incident. She told investigators, while they used to live together, they were not currently living together although she allowed him to keep some of his property in the back of her car. She is the owner of the 2002 Chevy Impala in which the shooting occurred.

On the night of the incident, [REDACTED] said they had been drinking together and Miller became jealous. He was angry and accused her of “messing around” with a man named “BJ.”

She described their relationship as volatile whenever Miller drinks alcohol. She said they both had been drinking on the day of the incident and that she was “drunk.” However, she denied any illegal drug use and told the investigator that Miller never used illegal drugs in her presence.

According to her, Miller pulled her out of the car and pushed her back in the car, ripping off her blouse. Miller began physically fighting with her. Miller punched her in the chest and around the eyes. She attempted to fight back, but he was on top of her.

When asked if Miller [strangled] her during the incident, she said, “I was getting my ass whooped, yes.” When asked what Miller was hitting her with, she stated, “He was hitting me with his damn fists and pulled something and hit me, and I tried to take it from him and hit his ass back.” However, she was unable to describe the item “he pulled.”

She was asked if Miller had any weapon[s], she initially said no. However, when asked if she had seen him with a knife, she said, “Yeah. [during] the fight inside the car. It was just a blade—a sharp blade. I tried to overdo [sic] him and take it from his ass, but we were fighting, struggling. I started hollering. That’s when the police came.”

She stated Miller was trying to hit her with [the knife] and she demonstrated a downward motion with a clenched fist while describing the incident to the investigators. She believed he was using the blunt end of the knife to strike her in the face and eyes--causing her pain and difficulty seeing. She estimated the assault lasted between 10-15 minutes.

Later during the interview, she described the object as possibly being a plastic fork. She said she saw plastic, “white plastic.” However, towards the end of the interview she told investigators that the object that Miller hit her with was a knife, because it was “sharp and shiny.”

The investigators asked her if the object he hit her with, was something that she kept in her car. After thinking about it she said, “. . . no. Not really. No.” She believed that Miller already had the knife with him when he began assaulting her.

While still on her back fighting with Miller, she saw bright lights and heard the officers say, “Move. Put your hands up. Stop.” She said she was screaming, “Get off me! Get up!” while Miller was on top of her. She saw a light and heard a “pop.” She stated did not see the officers with guns out or the officers who handcuffed Miller as they pulled him off her.

She stated that Miller had been violent with other people, but never with her. She later told the investigator that Miller had physically assaulted her on prior occasions, but never as violent as the current incident.

■■■■■ Injuries

LAFD paramedics provided medical treatment to ■■■■■ ■, who did not have any obvious signs of bleeding. ■■■■■ said Miller attacked, scratched her right eye, and she was sore on her face, chest, shoulder, and thighs. ■■■■■ was uncooperative and refused any further treatment or transportation to a hospital for further evaluation.

■■■■■ told detectives, that on the night of the incident, he was sleeping in his car which was parked directly in front of ■■■■■’s car, when he heard Miller “beating” on his girlfriend. ■■■■■ has known Miller for approximately 20 years and refers to him as “Memphis.” On the night of the incident, he heard the couple arguing. She was seated in the driver’s seat, with the car door open when it appeared to ■■■■■ as though Miller, who was standing outside the car leaning in, was stabbing his girlfriend.

When officers arrived at the scene, he heard them say, “put down the knife, put your hands up” and “drop the knife.” ■■■■■ got out of his car and was standing across the street while the officers were giving orders to Miller to drop the knife. ■■■■■ said, “[the officers] were pointing guns at [Miller] and telling him to put down the knife. But he was still, you know, like punching on her or like he was coming down on her, you know, swinging on her like he had something in

his hand. He had his hand balled like that coming down like that. So that – to me, that looked like he was trying to stab her.”

██████. did not see a knife, but he demonstrated to investigators how Miller appeared to stab his girlfriend with his clenched right hand over his head, swinging down in a stabbing motion. ██████. said, “I didn’t see him put his hands down. I didn’t see him put his hands up. You know, I can be certain that he was stabbing, you know, because the way he—the way I seen it, it looked like somebody was being stabbed. The way he was doing it, it looked like he was coming down and he was stabbing her.” ██████. said he stood approximately ten feet away from the officers as they were giving Miller orders to show his hands.

██████. told officers that Miller and his girlfriend have been in a dating relationship for approximately seven months and regularly engaged in domestic violence against each other. He stated that three months prior to this incident, ██████. stabbed Miller during an argument.

On the day of the incident, ██████. said he smoked rock cocaine with Miller and ██████. and stopped them from physically fighting. ██████. said Miller appeared drunk and high and he saw him smoke rock cocaine 20 minutes prior to the violence between Miller and ██████. ██████. said that Miller was mad at ██████. because 10-15 minutes before the officers arrived, she danced with ██████. ██████. told investigators, that on that night, “[Miller said to his girlfriend] ‘I’ll make somebody kill me before I let you go’ or something like that.”

When the officers shot Miller, ██████. said Miller fell onto ██████. According to ██████, they immediately ran over to the car and pulled Miller off ██████. The paramedics arrived within a couple of minutes.

██████

On the night of the incident, ██████. was watching television in his second story apartment above the market, when he heard Miller and ██████. arguing. He looked out his window and could see ██████.’s car was parked directly below his apartment. He has known both ██████. and Miller, for approximately a decade and allows Miller to run errands for him.

██████. told investigators that the couple fights “every day” especially when they drink. He stated, five to six months ago during one of their arguments, ██████. heard a “big commotion.” When he went to investigate, he found Miller stabbed on the sidewalk and ██████. present but off to the side. ██████. gave Miller chest compressions until the paramedics arrived.

On the night of the incident, he told investigators “They were fighting and it’s the usual occurrence . . . right before the police showed up . . . I saw him on top of her.” He heard her say, “Get off of me. Get off of me” and saw them “swinging [punches]” at each other. ██████. saw Miller grabbing ██████. and hitting her, while Miller stood on the outside of the car. He heard Miller say, “Fuck you . . . Get out of the car . . . You don’t love me.” From his vantage point, ██████. could not see whether there was anything in Miller’s right hand while they were physically fighting.

When he looked out the window again, he saw two police officers arrive and he heard them say “Step out of the vehicle! . . . He’s on top of her! . . . He has a knife! . . .He’s stabbing her! . . . Get off her!” That is when [REDACTED] heard three gun shots. [REDACTED] told investigators he had a limited view and was unable to see what Miller was doing inside the car when the officers arrived.

OFFICERS’ STATEMENTS

Officer Bryce Butler

Officer Butler received a dispatch call of a man who was possibly under the influence, assaulting a woman with a knife. The 9-1-1 caller stated he was attacked and provided a brief description of the attacker.

As they arrived at the scene, he heard gunshots fired and radioed back that shots were fired. Butler heard Officer Velasco say, “He’s on top of her! He’s –he has a knife!” and “Get off of her! Drop the knife! Drop the knife!” He recalled when officers pulled Miller off of his girlfriend, she had a laceration on her face and that she was unclothed from the waist up. Officer Butler described [REDACTED] as distraught and heard her say, “Oh, my God, he wouldn’t get off of me.”

Officer Butler was concerned that there were two people who needed medical attention. He saw Officer Nunez pull Miller out of the car and handcuff him. Officers immediately rendered aid to [REDACTED] and then turned their attention to Miller, who was unresponsive. Officers began CPR on Miller, until LAFD arrived.

Officer Saul Moran

He and partner, Officer Butler, responded to a radio call stating “390 [possibly under the influence] man armed with a knife.” As he and his partner were approaching in their vehicle, he observed two officers moving towards a parked car on 40th Place and Vermont Avenue in the “low and ready position” with their weapons drawn. Officer Moran clarified “low and ready” as weapons drawn but not aiming at a specific target, their guns were pointing to the ground in a tactical manner. Officer Moran heard three to four gunshots and exited his vehicle. He told investigators, “I heard one of the officers [say] ‘he’s stabbing her’ and then I at that moment started requesting resources.”

Officer Daniel Battles

Officer Battles received an “ADW (assault with a deadly weapon) suspect . . . armed with a knife” dispatch call. When he arrived at the scene he saw two people inside the car, on the front seat with both of their feet facing out the driver’s side door. He saw Miller on top of [REDACTED] and neither of them were moving.

Since none of the officers had a safety shield in their patrol cars, they requested that one be brought immediately, however the closest one was approximately 15 minutes away. Officer Battles was concerned for [REDACTED] and approached without the safety of a protective shield.

He stated he could not see [REDACTED] M. moving underneath Miller and was concerned that she was stabbed or shot. Approximately one minute and forty-seven seconds after the shooting, he decided to pull Miller off [REDACTED], without a shield, by grabbing Miller's legs while Velasco provided lethal cover. Officer Battles observed that [REDACTED] was approximately 5'3"-5'4 feet tall and approximately 50-55 years old. Her face and arms were bloody, but she was not critically wounded.

Miller was unresponsive as he was moved from the car to the street. Officer Nunez handcuffed him while Officer Velasco moved him into the recovery position and attempted to find a pulse. Velasco moved Miller onto his back and began performing CPR while they awaited the paramedics.

The Knife

A bloody, six- and one-half inch knife was located on floorboard between the right front seat and the door frame of the Chevy Impala. The knife had an off-white, hard plastic handle and the blade was metal. (Figure 8 and 9).



Figure 8: Photo of Miller's Knife



Figure 9: Photo of Miller's knife on the floorboard.

DNA

The knife was tested for DNA and the results showed a mixture percentage of the two contributors. Eighty-four (84%) percent Miller and sixteen (16%) percent of an unknown contributor. ██████ did not provide a reference swab.

Firearms Evidence

Four 9mm casings were located around the Impala consistent with the officers firing four rounds. Officer Velasco fired three rounds and Officer Nunez fired one round. Miller was struck four times in the back, consistent with rounds from both officers striking Miller.

Autopsy

On February 1, 2021, Los Angeles County Medical Examiner Dr. Julie Huss-Bawab performed an autopsy of Miller's remains. Dr. Huss-Bawab attributed Miller's death to multiple gunshot wounds, specifically four gunshot wounds to his back resulting in fatal perforations of both lungs, the heart, the aorta, and the right subclavian artery. Dr. Huss-Bawab identified two associated exit wounds and recovered three bullet fragments from Miller's body.

Toxicology testing detected the presence of alcohol, diphenhydramine, cannabinoids, cocaine, phencyclidine (PCP), and methamphetamine in Miller's blood at the time of his death.

LEGAL ANALYSIS

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 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 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 know 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).

Analysis

Officers Velasco and Nunez responded to a report that Miller, who was armed with a knife, was beating his girlfriend and had already beaten a 75-year-old man who was in a wheelchair. When the officers arrived, they were confronted immediately with what appeared to be Miller actively stabbing the woman. There was no time to use less lethal means to stop Miller’s attack. The officers ordered Miller to stop and show his hands and drop the knife, but he did not comply.

While Miller’s assault on his girlfriend was not captured on either the BWV or DICVS video, two independent witnesses described Miller’s actions as “stabbing” his girlfriend and demonstrated how Miller had his clenched right hand over his head, swinging down in a stabbing motion. Investigators discovered that Miller possessed a deadly weapon.

Under the circumstances, the officers could reasonably believe that Miller was stabbing [REDACTED], and that the use of deadly force was necessary to defendant against an imminent threat of death or serious injury to another person.

CONCLUSION

For the foregoing reasons, we find that Officers Velasco and Officer Nunez acted lawfully in self-defense of another when they used deadly force against Randy Miller.