

**Non-Fatal Officer Involved Shooting of Russell Douthit
Los Angeles Police Department**

Officer Devin Diaz # 44005

J.S.I.D. File #22-0286



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 1, 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: Non-Fatal Officer Involved Shooting of Russell Douthit
J.S.I.D. File #22-0286
L.A.P.D. File #F045-22

DATE: October 1, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 20, 2022, non-fatal shooting of Russell Douthit by Los Angeles Police Department (LAPD) Officer Devin Diaz. We have concluded that Officer Diaz acted in lawful self-defense at the time he fired his service weapon, reasonably believing, based on the totality of the circumstances, that deadly force was necessary to defend against an imminent deadly threat.

The District Attorney's Command Center was notified of the shooting on August 20, 2022, at 1:15 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by LAPD Force Investigation Division (FID) Lieutenant Jess Falk.

The following analysis is based on body worn camera video (BWV), business surveillance video, investigative reports, audio recordings and transcripts of witness interviews, and crime scene diagrams submitted to this office by LAPD FID Detective Christina Ledesma on July 26, 2023. The compelled statement of Officer Diaz was not considered as part of this analysis.

INTRODUCTION

On August 19, 2022, at 11:59 p.m., LAPD officers from the Harbor Patrol Division observed a car parked in a handicapped parking space, without a handicap placard, in front of a liquor store. The officers believed the occupants in the car were minors. When the driver was unable to provide a valid driver's license, the officers investigated further and asked the passengers to step out of the vehicle one at a time.

Russell Douthit (Douthit), seated in the rear passenger seat, stepped out of the car and was patted down. Officer Diaz found a loaded handgun concealed in Douthit's waistband and ordered Douthit to get down on his knees and cross his legs. Before Diaz could handcuff Douthit, Douthit lunged back inside the vehicle, grabbed an object, and turned towards the officers. Diaz fired his service weapon one time at Douthit, striking Douthit in the left thumb. Douthit jumped up and ran with an

object clasped to his chest. Douthit was taken into custody and treated for a gunshot wound to his hand. The item in Douthit's hand was later identified as a cell phone.

FACTUAL ANALYSIS

August 19, 2022, at 11:59 p.m., LAPD Officers Devin Diaz (Diaz) and Jesse Zuniga (Zuniga) were patrolling Pacific Avenue in San Pedro when they observed a car parked in a handicapped space in front of a liquor store located on South Pacific Avenue.^{1,2}

Zuniga told investigators that Diaz was driving the patrol car and he was the passenger. When Diaz drove past the liquor store, Zuniga saw what he believed to be “[F]our young teenagers” in a known gang area, out past curfew, and attempting to buy alcohol.³

Surveillance footage and BWV showed that the windows of the car were down. As the officers approached the car, the driver, later identified as ■■■, removed his red hat and placed it near the center console.⁴ Zuniga told investigators that he observed ■■■. remove his red baseball hat and saw Douthit slide down in his seat.⁵ (*Figure 1*)



Figure 1: Surveillance footage showing the position of the occupants in the car and ■■■. 's red baseball cap in the center console (circled in yellow). ■■■. was seated behind ■■■.

¹ The officers were driving a marked black and white patrol car and dressed in Los Angeles Police Department uniforms with badges and nameplates affixed to the front of their shirts.

² The parking lot, located on the 1800 block of South Pacific Avenue, had surveillance cameras.

³ The occupants of the vehicle were the driver, ■■■, age 21, front passenger ■■■, age 23, driver side rear passenger ■■■, age 19, and passenger side rear passenger Douthit, age 20.

⁴ Surveillance footage came from the store's cameras. Zuniga described the parking lot as well lit.

⁵ Zuniga told investigators they were patrolling a high crime area (i.e., robberies and shootings) frequented by the Rancho San Pedro gang who often wear red Philadelphia Phillies hats to identify themselves. Zuniga stated he had made numerous firearm arrests in that area.

The officers pulled into the parking lot and parked. Zuniga told Douthit to close the passenger door and stay in the car. Surveillance video from the liquor store showed that Douthit closed the rear passenger side door and placed a piece of black clothing over his lap.

BWV shows that Diaz told [REDACTED] that the reason for the stop was because [REDACTED] was parked in a handicapped spot without a disability placard displayed. Diaz asked [REDACTED] for his driver's license, registration, and proof of insurance. [REDACTED] told Diaz that he did not have a driver's license, or any other identification, and that the car belonged to [REDACTED]⁶

At 12:02 a.m., Diaz asked [REDACTED] to step out of the car and face away from Diaz. Diaz told [REDACTED] he was being detained because Diaz could not verify his identity. Zuniga told investigators that "[REDACTED] was being temporarily detained [because [REDACTED].] was an unlicensed driver." Douthit made "small talk" with Zuniga as [REDACTED] exited the car and was searched. [REDACTED] was ordered to face the wall of the liquor store while the officers contacted the other individuals in the car. Diaz asked [REDACTED] to exit the car and told her to keep her hands behind her back, without handcuffing her. She complied with Diaz's instructions and stood next to [REDACTED] next to the wall of the liquor store.

BWV showed that at 12:03:04 a.m., Diaz went to the passenger side rear door. Diaz told Douthit to "... step out, face away from me." Douthit removed the black shirt from his lap and placed the shirt and his cell phone on the back seat. Zuniga stated he was also watching [REDACTED] while she got her phone out. At 12:03:20 a.m., Diaz held Douthit's clasped hands with his left hand while he conducted a pat down search of Douthit's waistband area with his right hand.

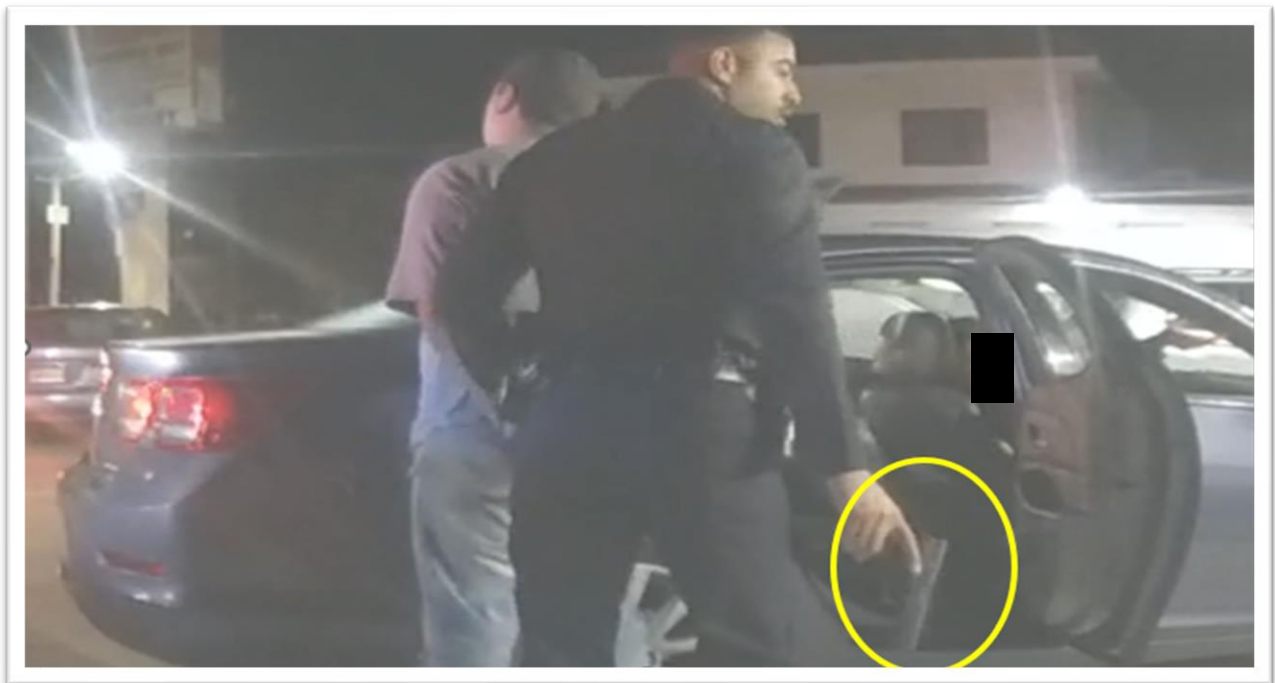


Figure 2: Zuniga's BWV shows Diaz holding Douthit's gun in his right hand (yellow circle).

⁶ Zuniga told investigators that since no one was able to provide a valid driver's license, it furthered his belief that the occupants of the car were minors.

While patting Douthit down, Diaz found a handgun secreted in Douthit's waistband. According to Zuniga, Diaz told him, "Partner gun." Diaz removed Douthit's handgun with his right hand while holding onto Douthit with his left hand. (Figure 2)

Zuniga stated he believed the "[S]ituation could escalate" and was concerned that [REDACTED], who was still unhandcuffed, had "[A]ccess [to] the whole vehicle," so he unholstered his weapon. Zuniga stated, "[I]t was my belief that there was another gun concealed in that vehicle . . . [And] I believe[d] that [Douthit] was going to arm himself with a gun. [Douthit] was going to turn and try to kill me and my partner." Zuniga grabbed Douthit's gun from Diaz to free up Diaz's right hand and placed it in the patrol car.

[REDACTED] told investigators that he saw Diaz "[G]rab [Douthit's] gun." Zuniga stated that [REDACTED] and [REDACTED] turned around while Zuniga called for backup. [REDACTED] started to cuss at the officers and refused to follow their commands to keep her hands up.

BWV showed that Diaz ordered Douthit to get on his knees and cross his legs. Douthit was on his knees and unhandcuffed next to the passenger side of the car. According to Zuniga, Diaz stepped backwards and told Zuniga to find cover. Zuniga ordered Douthit to move to his right (away from the passenger compartment of the car). Zuniga's BWV showed that without warning, Douthit uncrossed his feet and shifted his weight to the left and quickly entered the car compartment reaching with both his hands and his upper body inside the car. (Figure 3)



Figure 3: Zuniga's BWV depicting Douthit kneeling with his legs crossed (right photo) before he uncrossed them and lunged inside the car (left photo).

Zuniga ordered Douthit to stay still and shouted, "Hey! Don't fucking move!" while he pointed his service weapon at Douthit. Zuniga told investigators that he saw Douthit look over his right shoulder at the officers. Zuniga lost sight of Douthit's upper body when Douthit lunged into the

car. Zuniga stated he believed that Douthit was arming himself to shoot at the officers. Zuniga quickly ducked behind the ballistic panels of the patrol car to protect his head and upper body.⁷

█ told investigators that after Douthit exited the car, before Douthit could be handcuffed, █ heard the officers tell [Douthit to] “Freeze.” █ stated [Douthit] “[L]ooked at me . . . [And] I guess he tried to run.”

Diaz’s BWV showed Diaz standing behind the patrol car doors as Zuniga shouted at Douthit, “Don’t fucking move!” Douthit exited the car, turned and, faced the officers while holding a dark object in his right hand. At that moment, Diaz who was standing approximately 15.5 feet away from Douthit, fired one round. After Zuniga heard the shot fired by Diaz, Zuniga stated he looked up and saw Douthit holding a black object at the center of his chest in a two-handed grip, running away from them.

At 12:05:14 a.m., BWV shows Douthit dropping the item he was holding, which was later identified as a cell phone. Zuniga broadcast, “Shots fired! Officer needs help!” Douthit ran to the sidewalk and stopped. Diaz pointed his service weapon at Douthit, while shouting, “Don’t move, don’t move, get on the ground.” (Figure 4)



Figure 4: Zuniga’s BWV depicting Douthit after he surrendered.

After the shooting, the witnesses became confrontational with the officers. █ stood up and walked towards the officers standing at the patrol car, shouting “Stop, stop! Don’t do that! Don’t do that!” A male exited the liquor store and began yelling at the officers. The officers attempted to control the scene, however █ and █ were unhandcuffed and █ was still sitting in the car with access to any other weapons in the car. Additionally, witnesses from the liquor store walked outside and refused to follow the officers’ orders.

Zuniga told investigators that when Douthit stopped running and kneeled on the ground, Zuniga did not know who had been shot, his partner or Douthit. Zuniga observed blood on Douthit’s

⁷ As Zuniga crouched down behind the patrol car door, only the sound of the shooting incident was captured on his BWV.

shirt and realized that Douthit had been shot. While Diaz and Zuniga were waiting for backup, [REDACTED] became hysterical and repeatedly screamed at the officers to shoot her. Zuniga told investigators that the one of the men from the liquor store said, “You trigger happy mother fuckers! Well, shoot me!”

As additional officers arrived, Douthit was arrested and taken into custody. When Douthit was searched, officers found a black holster inside his waistband.

Forensic Evidence

Medical Reports

Douthit was admitted to Harbor UCLA Medical Center on August 20, 2022. He was treated for a gunshot wound to his left thumb, first finger, and middle finger by Doctors Marshall Fairres, Stephen Shymon, and Daniel Rogan. Douthit was discharged on August 24, 2022.

Ballistics

Diaz fired one 9mm round at Douthit. A Bullet-Path Analysis Report identified that the round from Diaz’s weapon struck (from back to front) the cellular phone that Douthit was holding in his hand. (Figure 5)



Figure 5: Photograph of the back of Douthit’s cell phone showing the impact (depicted in the yellow circle) from the round fired by Diaz.

A criminalist from the Force Science Division (FSD) collected and booked one discharged 9mm cartridge fired from Diaz’s service weapon, found at the curb of 18th Street next to the sidewalk.

The 9mm handgun taken during the search of Douthit was collected and booked into evidence. Douthit was armed with a black polymer 9mm Glock, Model 17 semiautomatic handgun, serial

number BCBE422.⁸ The LAPD forensic analyst who rendered the firearm safe observed that the magazine was fully inserted into the handgun and loaded with 10 live rounds.

The handgun was analyzed by LAPD Firearms Examiner, Genaro Arredondo (Arredondo). Arredondo test fired the weapon and determined it was functional. (Figure 6)



Figure 6: The handgun removed from Douthit’s waistband as he was searched by Diaz. Forensic firearms analysts removed the inserted magazine and 10 live rounds.

LAPD Forensic Print Specialists analyzed the handgun and obtained a latent print that was matched to Russell Douthit. The handgun was not registered to Douthit.

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

⁸ Douthit was charged and convicted in this case of carrying a loaded firearm in violation of Penal Code section 25850 in case NA120655 on November 7, 2022.

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) 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).

It was midnight when Officers Diaz and Zuniga contacted the occupants in the car. The officers believed that the car was occupied by underage minors and illegally parked outside the liquor store. BWV shows that Diaz could not verify the age or identity of the driver and Diaz calmly asked ■■■. and ■■■. to step outside the car. Diaz explained to them that they were being detained until the officers could verify their identities. Only ■■■ was handcuffed at this time and ■■■. remained inside the car, unhandcuffed.

Diaz’s voice and manner were calm as he began searching Douthit. ■■■. who was standing at the liquor store wall, turned around and began arguing with Zuniga. She refused to comply with his orders to face the wall and keep her hands on her head. Zuniga believed that ■■■. was arguing to create a chaotic scene to distract the officers. However, Diaz ‘s voice remained calm when he found the concealed handgun on Douthit.

In his BWV, Diaz stepped away from Douthit (with Douthit’s gun) and was heard asking for “cover” from Zuniga. It was not until that moment, that Zuniga unholstered his service weapon as he stood behind the patrol car.

Zuniga’s BWV showed that despite the fact Zuniga had his service weapon drawn and pointed at Douthit, Douthit lunged inside the car.⁹ Zuniga raised his service weapon without firing and yelled, “Hey! Don’t fucking move!” Zuniga told investigators, “[I]t was my belief that there was another gun concealed in that vehicle . . . [And] I believe[d] that he was going to arm himself with a gun. [Douthit] was going to turn and try to kill me and my partner.” It was not until

⁹ Diaz was on his radio (blocking the view of his BWV) when Douthit lunged.

Douthit turned towards the officers with the dark item in his hand that Diaz unholstered his service weapon and fired at Douthit.

Since Zuniga was pointing his service weapon at Douthit and ordering him not to move, it was reasonable for the officers to believe that Douthit was willing to risk his life to reach inside the car for a gun to shoot the officers.

Immediately after the shooting, Diaz ran for cover behind the patrol vehicle because it was still unclear to the officers what Douthit had retrieved from the car as Douthit ran towards the street,

The physical evidence from the cell phone and the injury to Douthit's left hand show that Diaz was focused on the dark object held by Douthit when Diaz fired his service weapon. Since Diaz had found a concealed weapon on Douthit, it was not unreasonable for him to believe that Douthit would risk his life to reach back into the car to retrieve another handgun to shoot the officers (or that ■■■■, who was unhandcuffed had access to another firearm in the car).

Under these circumstances, the evidence supports a reasonable belief that Diaz's use of deadly force was necessary to defend against an imminent threat of death or serious bodily injury to the officers or another person.

CONCLUSION

For the foregoing reasons, we find that Officer Diaz acted lawfully in self-defense and in defense of others.