

**Fatal Officer Involved Shooting of
Jose Antonio De Santiago-Medina
Los Angeles Police Department**

Officer Paul Bernd, #36841

J.S.I.D. File #19-0257



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 6, 2022

MEMORANDUM

TO: CAPTAIN RICH GABALDON
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 Jose Antonio De Santiago-Medina
J.S.I.D. File #19-0257
F.I.D. File #F026-19

DATE: October 6, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 6, 2019, fatal shooting of Jose Antonio De Santiago-Medina (Medina) by Los Angeles Police Department (LAPD) Officer Paul Bernd. We have determined that Officer Bernd acted in lawful self-defense when he used deadly force against Medina.

The District Attorney's Command Center was notified of this shooting on June 6, 2019, at approximately 1:05 p.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant Damian Gutierrez.

The following analysis is based on reports and other materials, including 9-1-1 calls, body-worn video (BWV), police-car dash-camera video, photographs, and interviews of witnesses submitted by the LAPD Force Investigation Division. The compelled statement of Officer Bernd was not considered in this analysis.

FACTUAL ANALYSIS

On June 6, 2019, surveillance video captured Medina approach the front door of a house on Edenhurst Avenue. Medina struck the top of the door frame with a metal rod and walked away. Shortly thereafter, at approximately noon, [REDACTED], was walking near the corner of Dover Street and Edenhurst Avenue. [REDACTED]. stated that Medina approached him, and stated, "Hey!" [REDACTED]. saw Medina holding a boxcutter with an exposed blade. [REDACTED]. stated that Medina made a jabbing motion toward [REDACTED] stomach area. [REDACTED]. ran away along Edenhurst Avenue. When he looked back, he saw Medina standing near [REDACTED]. [REDACTED]. held his arms up in front of Medina and backed away from him. [REDACTED] called 9-1-1 and reported that Medina tried to "stab" him.

██████████. stated he saw ██████████. running away from Medina, who then walked toward him while he was standing near his work truck. ██████████. stated he asked Medina in Spanish, “What’s up?” Medina was approximately five feet from ██████████. with his fists clenched by his waist. ██████████. believed Medina was going to attack him. In response, he ran east on Dover Street. ██████████. stated he did not see any weapons. ██████████. called 9-1-1 and reported that Medina chased him from his work truck.

A witness, ██████████., corroborated Medina’s interactions with ██████████. and ██████████. ██████████. stated he saw Medina chase ██████████. with a yellow boxcutter with the blade exposed. ██████████. called 9-1-1 and reported his observations.

Beginning at 12:06 p.m., in response to the 9-1-1 calls, officers were given radio communications regarding a person “chasing passerbys with possibly a razor blade or a boxcutter[.]” Several uniformed LAPD officers equipped with BWV cameras responded. At approximately 12:10 p.m., Bernd and his partner, Officer Rodriguez, responded and searched the neighborhood for Medina.

At 12:22 p.m., Officer Martinez broadcast that they had a “possible suspect.” BWV captured Martinez verbally contact Medina and give him several commands to turn around and show his hands. Medina raised his hands and was not holding any weapons. Bernd and Rodriguez assisted Martinez and his partner, Officer Cervantes. Rodriguez armed himself with a beanbag shotgun. Cervantes asked Medina if he spoke English or Spanish. Cervantes and Martinez ordered Medina in Spanish to turn around. Initially, Medina was unresponsive but eventually turned away from the officers. Martinez ordered Medina, in Spanish, to go to his knees. Medina did not comply. Shortly thereafter, Medina reached into his waistband area with his right hand and dropped a boxcutter to the ground. Medina turned to his right, squatted down, and picked up the boxcutter from the ground with his left hand. Medina appeared to look in Bernd’s direction. On his BWV, Bernd is heard stating, “He’s got the knife.”



Bernd’s BWV captured Medina pick up the boxcutter and approach Bernd.

Medina appeared to look directly at Bernd and began to run toward Bernd while holding the boxcutter at waist level with the blade pointed toward Bernd. Bernd yelled, “Stay! Stop!” Rodriguez fired one round from the beanbag shotgun, striking Medina’s chest. Almost simultaneously, Bernd fired one round from his service pistol at Medina, who fell to the ground with the boxcutter in his left hand.¹



Medina falling with the boxcutter in his left hand after being shot.



Close-up of boxcutter in Medina’s hand.

¹ BWV, the physical evidence at the scene, and laboratory analysis confirmed that Bernd fired one round from his service weapon, a handgun, and that Rodriguez fired a round from a beanbag shotgun. LAPD investigators determined that Bernd fired his pistol at Medina at a distance of approximately 16 feet. Investigators also determined that Medina ran approximately 16 feet in two seconds from when he picked up the boxcutter to when Bernd fired his pistol.

Police car dash-camera video shows that Bernd approached and kicked the boxcutter away from Medina. At the scene, Medina succumbed to his injuries resulting from the gunshot.



Boxcutter photographed at the scene.

On June 8, 2019, an autopsy was conducted, and the medical examiner determined that Medina died as a result of a single “gunshot wound of the chest.” A toxicological analysis detected a “presumptive positive” for benzodiazepine, a tranquilizer prescribed to treat conditions such as anxiety and insomnia.² However, a confirmatory analysis indicated “ND,” or not detected. Thus, the toxicology analysis was unremarkable.

Medina lived with the mother of his adult children on Dover Avenue. She stated to investigators that Medina had recently been suffering from hallucinations and was paranoid. She reported that Medina had seen a doctor recently but had not yet been diagnosed with a mental illness, and that Medina had only been prescribed sleeping medication.

LEGAL ANALYSIS

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 505. In protecting himself or another, a person may use that amount of force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. *Id.*

In California, the evaluation of the reasonableness of a police officer’s use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to

² <https://www.webmd.com/mental-health/addiction/benzodiazepine-abuse#1>.

evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

The available evidence indicates that Medina was likely suffering from an undiagnosed mental illness. Medina acted erratically and aggressively when, without any apparent provocation, he struck the front door of a house with a metal rod and assaulted two persons with a boxcutter. In response to several 9-1-1 calls, officers responded to the area. Bernd was informed of Medina's assaultive conduct before Medina was located by officers on Edenhurst Avenue. Other officers gave Medina clear commands in English and Spanish. Medina did not comply and reached for a boxcutter from his waistband. After fumbling and dropping it to the ground, BWV showed he picked up the boxcutter and looked in Bernd's direction. He ran toward Bernd with the boxcutter in his hand and blade extended outward toward Bernd. Within two seconds, Medina had travelled half the distance toward Bernd before Bernd fired a round from his service pistol stopping the actual and imminent threat Medina posed. Medina and the other officers did not have any more time or distance to safely deescalate Medina's assault with the boxcutter.

CONCLUSION

We conclude that Officer Bernd acted in lawful self-defense when he used deadly force.