

**Fatal Officer Involved Shooting of Ricardo Myers
Los Angeles County Sheriff's Department**

Deputy Jonathan Lee #636283

J.S.I.D. File #19-0453



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 9, 2020

MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Ricardo Myers
J.S.I.D. File #19-0453
L.A.S.D. File #019-22894-1137-013

DATE: October 9, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 30, 2019, fatal shooting of Ricardo Myers by Los Angeles County Sheriff's Department (LASD) Deputy Jonathan Lee. We have determined that Deputy Lee acted lawfully in defense of another.

The District Attorney's Command Center was notified of the shooting on October 30, 2019, at 8:02 a.m. The District Attorney Response Team responded to the location and was given a briefing and walk-through of the scene by LASD Lieutenant Charles Calderaro.

The following analysis is based on investigative reports, audio-recorded interviews, radio transmissions, crime scene diagrams and sketches, photographs, and the autopsy report submitted to this office by LASD Homicide Bureau Detective Jon Bailey and Sergeant Mike Austin. The voluntary statement of Deputy Lee was considered in this analysis.

FACTUAL ANALYSIS

On October 30, 2019, at approximately 6:28 a.m., Betty R. called 9-1-1 and reported that her "kid's father," 62-year-old Ricardo Myers, "Keeps saying he needs mental health, but he's not – he isn't doing anything about it." Betty R. reported that Myers was, "Disrupting the house." When asked what she wanted the police to do, Betty R. stated, "I need them to come out and assess him because he needs mental health."¹ Betty R. informed dispatch that there were no weapons in the home. Dispatch put out the call to deputies stating, "Children's father, male 62, arguing with family, no weapons..."² LASD deputies Jonathan Lee and Miguel Gonzalez responded to the Lancaster residence at approximately 6:58 a.m. Both deputies were wearing distinctive LASD uniforms and were equipped with Tasers.

¹ According to Betty R., before calling 9-1-1, she called a psychiatric emergency team (PET) to try to have Myers evaluated but was told she needed to call 9-1-1 after she informed them that Myers was "agitated."

² The deputies were not informed of any possible mental health issues.

Lee knocked on the front door of the residence and Myers' adult son, Vincent, invited the deputies inside. When the deputies entered the home, Betty R. and Myers were near the entryway to the dining room and kitchen area. Myers walked through the kitchen and entered the garage. Gonzalez spoke with Betty R. near the dining room table, and Lee removed the flashlight from his duty belt and walked toward the garage to contact Myers.³

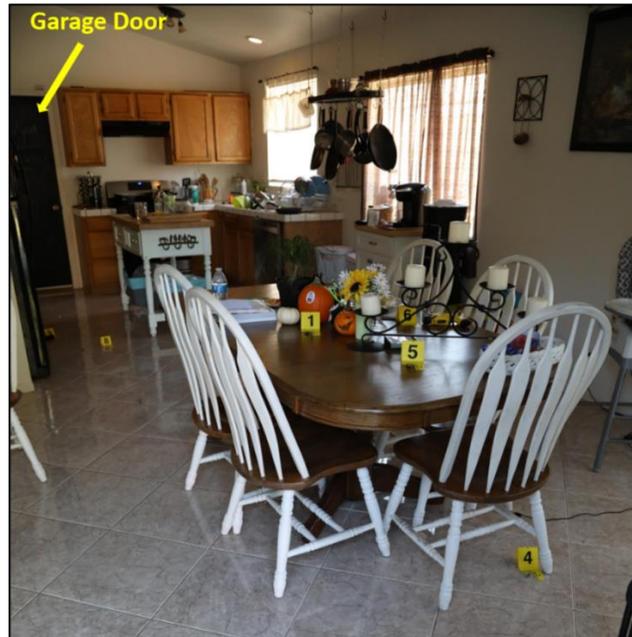


Figure 1 – Photograph depicting the dining room and kitchen of the residence.

Lee opened the garage door, and Myers was a few feet in front of him walking toward the open vehicle door. Lee stood in the doorway between the kitchen and garage and asked, “What’s going on?” Myers turned around, bent down, and grabbed a yellow handle that was protruding from underneath a makeshift bed on the garage floor. Myers pulled out a large axe and said, “Want some of this motherfucker?” Myers took a step toward Lee and swung the axe at him. Lee backed up, and the axe came within inches of hitting him and struck the garage door. As Lee retreated into the kitchen, he dropped his flashlight on the floor and drew his service weapon. Lee continued backing up, and Myers entered the kitchen with the axe in his hands.

Gonzalez drew his service weapon, pointed it at Myers, and ordered him to drop the axe. Lee continued retreating backward toward the dining room table while ordering Myers to, “Put it down!” Lee broadcasted over his radio that he was detaining an armed suspect and needed backup. Lee then radioed, “Suspect is unco-op. He’s got a knife in his hands. Put it down! Put it down!” Myers continued to hold the axe and walked toward the deputies. Gonzalez and Lee were now standing on opposite sides of the dining room table. Myers advanced toward them and stopped in the small area between the kitchen and dining room. A brief standoff ensued, and Myers yelled profanities at the deputies and stated, “You better shoot me motherfucker!” and “Go ahead and shoot me!”

³ According to Lee, it was dim inside the house.

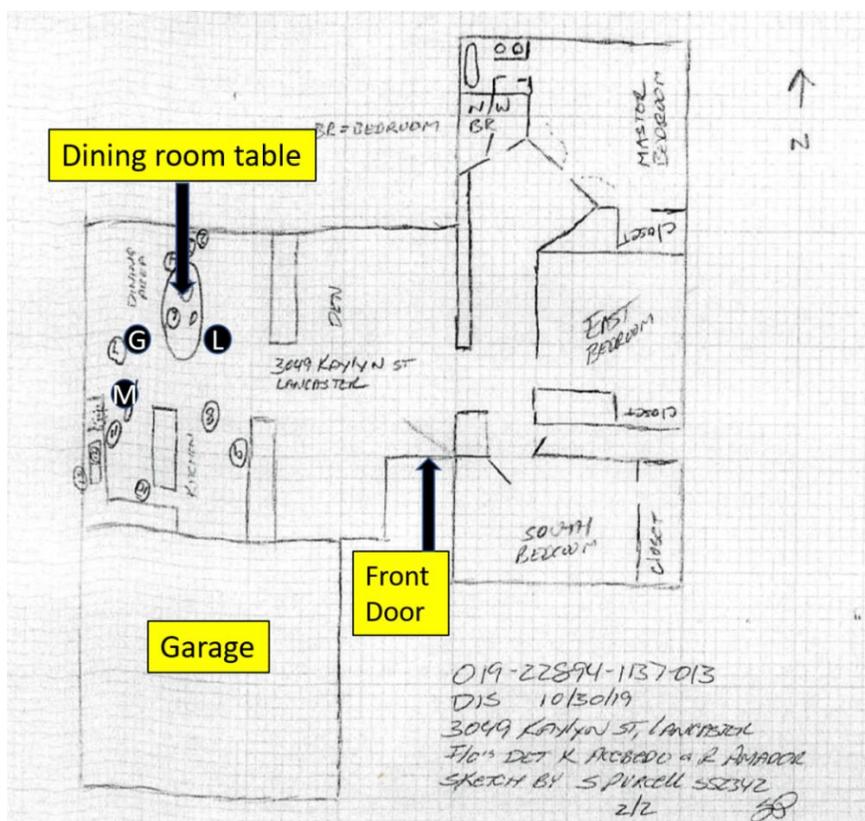


Figure 2 – A sketch depicting the location of the incident. G, L, and M represent an approximation of where Gonzalez, Lee, and Myers were positioned prior to the shooting.

Gonzalez holstered his service weapon, drew his Taser, and pointed it at Myers while ordering him to drop the axe. Betty R. and Vincent yelled at the deputies, telling them not to shoot Myers. Vincent yelled, “Tase him!” Myers was approximately four to five feet away from Gonzalez when he began to raise the axe and take a step toward Gonzalez. At that time, Lee discharged his service weapon five times. Three rounds struck Myers, and he fell backward to the floor. Lee radioed that the suspect was down.⁴ Paramedics from the Los Angeles County Fire Department responded to the scene and pronounced Myers dead at 7:12 a.m.

Incident Location

Investigators recovered a 34” axe lying on the floor between the kitchen island and stove.⁵ The axe had apparent blood spatter on the handle.

⁴ Approximately one minute and thirty seconds elapsed between Lee’s call for backup and Lee’s “suspect down” radio transmission.

⁵ Gonzalez moved the axe away from Myers immediately following the shooting.



Figure 3 – The axe recovered from the scene

Investigators observed strike mark damage to the exterior of the kitchen door that leads to the garage. According to the investigators, it appeared that the strike mark “could have been caused by an axe head.” The location of the mark is consistent with Lee’s description of the assault.



Figures 4 & 5 – Photographs of the strike mark damage located on the garage door.

Lee’s flashlight was recovered from the kitchen floor, lying in front of a cabinet approximately eight feet from the garage door. Five expended cartridge casings head stamped “FC 9MM Luger” were recovered from the dining room table and nearby floor area. The casings matched those found in Lee’s Smith and Wesson, model M&P9, 9mm Luger caliber semiautomatic service weapon. Multiple expended bullets and bullet fragments were retrieved from the scene. Gonzalez’s Taser was recovered from the dining room table.

Autopsy

An autopsy was performed on November 1, 2019, by Deputy Medical Examiner Julie Huss-Bawab. The cause of death was determined to be multiple gunshot wounds. Myers sustained gunshot wounds to the chest, abdomen, and lower jaw. Toxicology results indicated the presence of 7-Aminoclonazepam and marijuana in Myer’s blood at the time of the incident.⁶

⁶ 7-Aminoclonazepam is a metabolite of clonazepam, a tranquilizer drug used to treat or control seizures, panic attacks, and a movement disorder. It is also commonly used recreationally.

Statement of Deputy Jonathan Lee

Investigators interviewed Lee on November 1, 2019. Lee stated that he and Gonzalez responded to a family disturbance call. When they got inside the residence, Gonzalez spoke with the reporting party, Betty R., and he went to contact Myers. When he attempted to speak to Myers in the garage, Myers grabbed an axe from underneath a makeshift bed. Lee said Myers had a look of “pure anger” and stated, “Want some of this motherfucker?” Myers then took a step toward Lee and swung the axe at him “with great force.” Lee quickly moved out of the way, and the axe came within inches of him and struck the garage door.

Lee was scared and believed Myers was going to kill him. Lee retreated into the kitchen, drew his service weapon, and ordered Myers to put the axe down. Myers ignored the orders and continued to walk toward Lee and Gonzalez with the axe in his hands. Gonzalez was on one side of the table, and Lee was on the other side. Lee kept backing away from Myers until he backed into a “hard object,” possibly a chair. Lee was afraid to take his eyes off Myers, so he stopped walking backward. Around the same time, Lee noticed Gonzalez had backed into a plant or wall and was also unable to retreat further.

Myers walked out of the kitchen and into the area between the kitchen island and the dining room table. He had an angry look on his face as he tightened his grip on the axe and walked closer to Lee and Gonzalez. Myers took a half step forward and raised the axe over his head. Out of fear for his life, Lee put his finger on the trigger of his service weapon and pushed down; however, he did not pull hard enough, and his weapon did not fire. Myers then took a step backward, and Lee removed his finger from the gun trigger. Lee initiated a radio broadcast requesting assistance. As Lee gave Myers commands to drop the axe, he recalled Myers telling him, “You better shoot me motherfucker!”

Based on sounds he heard, Lee believed that Gonzalez had holstered his service weapon and drew his Taser. Myers looked at Lee and then looked at Gonzalez. Myers was standing closer to Gonzalez, and Lee believed Myers had “picked” Gonzalez to attack rather than him. Lee explained what happened next:

He [Myers] puts his hands a little bit closer together; I see him just tighten down on the axe. It was like slow motion, he kind of just twisted his body, and he puts all of his weight down on, like his back foot, and he lifted the axe up just a little bit and – he’s going for the swing, and I know he’s going for the swing. It’s not like a fake. He’s a couple feet away from Gonzalez. I don’t know what Gonzalez has in his hands, and he’s going for the swing. If he hit him [Gonzalez], it was going to kill him.

Lee discharged his service weapon multiple times, but he was unsure if he hit Myers because he still had a look of anger on his face and the axe “was still up.” Lee fired his duty weapon two more times, and Myers fell to the floor. Lee put out a radio call that the suspect was down. Lee and Gonzalez approached Myers to handcuff him. Gonzalez stepped over Myers and pushed the axe out of the way. Lee handcuffed one of Myers’s hands but was overcome with emotion and exited the residence without cuffing the other hand.

Statement of Deputy Miguel Gonzalez

Investigators interviewed Gonzalez on the day of the incident. Gonzalez told investigators that he was speaking to Betty R. near the dining room table when he saw Lee walk towards the garage door. Gonzalez then heard a loud “Bang!” noise, as if one object had hit another. Gonzalez looked toward the garage and saw Lee pointing his service weapon at Myers, who was holding an axe.

Gonzalez drew his duty weapon and ordered Myers to drop the axe. Myers asked Lee and Gonzalez if they were going to kill him. Gonzalez told Myers that he was not going to kill him but that he needed to drop the axe. Myers refused to comply and was “very angry.” Myers yelled profanities at them while aggressively walking toward him and Lee. Myers made “chopping” motions with the axe as he approached. Gonzalez holstered his service weapon and drew his Taser.

Gonzalez placed the Taser’s laser sight on Myers and ordered him to drop the axe. Gonzalez tried to back up further but could not because of the dining room table and wall. Myers was approximately four to five feet away from Gonzalez. Myers then took a large step towards Gonzalez with the axe, and Gonzalez was in fear for his life. Gonzalez believed that Myers was going to try to kill him with the axe. Gonzalez was just about to discharge his Taser when he heard three gunshots and saw Myers fall to the ground.

Statement of Betty R.

Investigators interviewed Betty R. on the day of the incident. A few days before the incident, Myers began to act “strangely” and would mumble to himself and seemed confused. Myers confided in Betty R. that he needed mental health treatment but then refused to go to the hospital. On the morning of the incident, Myers was angry and confused. Betty R. felt unsafe and was afraid for her and her children’s lives. She thought Myers would harm someone if he did not receive help. Betty R. called a number for a PET that she found on the internet but was told she needed to call the police when she informed them that Myers was “agitated.” Betty R. called 9-1-1. When Myers found out she called the police, he became angry, called her a “bitch,” and mumbled incoherently. Myers was not acting like himself and was “pissed.”

When the deputies arrived, Betty R. told them that Myers was in the garage. She did not remember if she had a conversation with the deputies but thinks she informed them that Myers needed mental health treatment. Betty R. began to walk to her room when she heard the deputies telling Myers to “drop it” multiple times. One deputy had a gun drawn, and the other deputy had a Taser drawn. Her son, Vincent, told officers, “Please don’t shoot him. Tase him.” Betty R. heard Myers loudly say, “Go ahead and shoot me!” two times to the deputies. Betty was having a panic attack and walked toward her bedroom. She then heard gunshots.

Statement of Vincent

On November 20, 2019, investigators interviewed Vincent. On the day of the incident, Vincent answered the door and let the deputies into the home. Vincent saw Myers walk toward the

garage. A short time later, Vincent saw Lee with his gun drawn and Gonzalez with his Taser drawn. Both deputies looked scared and were telling Myers to drop the axe he was holding. Vincent did not recall hearing Myers say anything. Vincent yelled to the deputies, "Tase him! Don't shoot him!" The deputies told Vincent to move away, so he started walking toward his bedroom. Vincent heard one deputy, he assumed was Lee, tell the other deputy, "Tase him! Tase him! Tase him!" As Vincent walked toward his bedroom, he heard one gunshot. According to Vincent, it was an "intense situation," but he believed the deputies should have tased Myers instead of shooting him.

Statement of Georgia R.

Investigators interviewed Georgia R. on the day of the incident. Georgia R. is Betty R.'s mother and was in the house on the morning of the incident. After Betty R. called 9-1-1, Myers was mad and told Betty R., "I'll never forgive you for calling the cops on me." Myers threw items around Betty R.'s bedroom and was acting "crazy." Georgia R. was in a bedroom when the deputies arrived, and she did not see the incident. She was able to hear the deputies tell Myers to, "Drop the knife" and heard Myers directing profanity toward the deputies and telling them to shoot him. She then heard three to four gunshots.

Statement of Andrea

Investigators interviewed Andrea, Myers' adult daughter, on the day of the incident. According to Andrea, Myers started acting differently two weeks before the incident. Myers seemed irritated and was acting "bizarre." When the deputies arrived, Andrea was in the bathroom, bathing her daughter and did not see the incident. She heard deputies order Myers to drop the weapon numerous times. Andrea also heard Vincent tell the deputies not to shoot Myers prior to shots being fired.

Statement of Thomas E.

Investigators interviewed Thomas E., Betty R.'s adult son, on the day of the incident. Myers had been acting unusual in the days leading up to the incident. Thomas E. believed Myers was having a "schizophrenic episode," as he would talk to himself, was easily angered, and had constant ringing in his ears. Thomas E. was in his room when the deputies arrived and heard four gunshots a short time later.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505.

In protecting himself or another, a person may use all the 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 the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

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.

In this matter, deputies went to the location in response to a family disturbance call. When Lee and Gonzalez arrived at the residence, they attempted to contact the involved parties to determine what had happened. Lee was not informed that Myers was having serious mental issues. When Lee tried to speak with Myers, Myers grabbed an axe and swung it at him. If Lee

had not moved, he would have been struck by the axe. Lee retreated, drew his service weapon, and ordered Myers to drop the axe. Myers appeared angry and yelled profanities at the deputies, told them to shoot him, and refused to drop the axe. During the standoff between Myers and the deputies, Lee called for backup, and the deputies retreated as far as they comfortably could without taking their eyes off Myers.

Gonzalez drew his Taser but did not deploy it. Myers was four to five feet away from Gonzalez and began to raise the axe and step closer. Lee was forced to make an immediate decision regarding whether to use deadly force to defend Gonzalez, who he reasonably believed to be facing deadly force. Given Myers' agitated mental state, prior assault on Lee, and his movement toward Gonzalez while armed with an axe, it was reasonable for Lee to believe Myers was about to inflict serious bodily injury or death upon Gonzalez. As such, Lee's use of deadly force was reasonable.

CONCLUSION

We find that Deputy Lee acted lawfully in the defense of another when he used deadly force against Ricardo Myers. We are closing our file and will take no further action in this matter.