# Officer Involved Shooting of Shellie Cooke Los Angeles Police Department

Officer James Blanchard, #38175
Officer Luis Martin, #41211
Officer Seree Rattanapichetkul, #37945

J.S.I.D. File #17-0132



JACKIE LACEY

District Attorney

Justice System Integrity Division

January 12, 2018

## **MEMORANDUM**

TO: COMMANDER ROBERT A. LOPEZ

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: Officer Involved Shooting of Shellie Cooke

J.S.I.D. File #17-0132 F.I.D. File #F016-17

DATE: January 12, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 6, 2017, non-fatal shooting of Shellie Cooke by Los Angeles Police Department (LAPD) Officers James Blanchard, Luis Martin, and Seree Rattanapichetkul.

The District Attorney's Command Center was notified of this shooting on March 6, 2017, at approximately 7:20 p.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant Brian Gilman.

The following analysis is based on reports prepared by the Los Angeles Police Department (LAPD) Force Investigation Division, submitted to this office by Detective Greg McKnight. The reports include photographs, audio-recorded interviews of witnesses, radio transmissions, 9-1-1 calls, Body Worn Video (BWV), and Digital In-Vehicle Camera System (DIVCS) videotape.

The compelled statements of Officers Blanchard, Martin, and Rattanapichetkul have been considered as part of this analysis.<sup>1</sup>

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<sup>&</sup>lt;sup>1</sup> Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in administrative discipline including termination from public service. *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285. The officers with knowledge of this incident were interviewed and ordered to submit to questioning concerning the performance of their official duties. Like any other individual, the officers possess a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against themselves. *Uniformed Sanitation v. City of New York, supra, at 284-285*. Because the LAPD ordered the officers to answer questions which might expose them to criminal liability, the LAPD compelled the officers to participate in interviews. The effect of this legal compulsion is that the officers' statements cannot be used against them in a criminal proceeding, nor can any material derived from the compelled interviews be used against them. *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 715. Further, because these compelled statements are part of the officers' police personnel file, the statements are confidential and may not be disclosed absent an evidentiary showing and court order. *Penal Code* section 832.7.

## **INTRODUCTION**

On March 6, 2017, at approximately 3:25 p.m., Barbara M. called 9-1-1 and reported that her daughter, Shellie Cooke, was in possession of a rifle and barricaded inside her home. Barbara M. described Cooke as "drunk" and depressed, and indicated she had a history of mental illness. Barbara M. expressed concern that Cooke might harm herself.

LAPD Officers Blanchard and Zarris were the first to arrive at the scene. Officers Rattanapichetkul, Nyugen, and Sergeant Kevin Gruner arrived shortly thereafter to assist.

Barbara M. told the officers that Cooke threatened to shoot herself. As the officers formulated a plan for Cooke to surrender herself safely, Officers Luis Martin, Eduardo Munoz, Seth Secor, Alvaro Ramos, and Ruben Fuentes also arrived at the scene to assist.

The officers surrounded the residence and Rattanapichetkul and Gruner called Cooke on the telephone and encouraged her to surrender. Cooke hung up the telephone and refused to exit the home. The officers also used their public address system in an attempt to communicate with Cooke and convince her to surrender. After those attempts failed, the LAPD Special Weapons and Tactics (SWAT) team was called to the scene.

Cooke remained barricaded in the home pacing back and forth for over two hours.

At 5:45 p.m., after the SWAT team arrived but before assuming control of the scene, Cooke exited the front door of the residence, armed with a .22 caliber Remington Auto 5, bolt-action rifle. She held the rifle in a "low ready" position and walked out of the front gate of the residence, onto the sidewalk, and toward the officers who were positioned in the street.

One of the officers yelled, "She's got a gun!" And other officers ordered her to drop the gun. Cooke did not comply and instead pointed the rifle in the direction of Blanchard. Blanchard was armed with a rifle and positioned behind a car across the street from Cooke. In fear for their lives and the lives of the other officers, Blanchard, Rattanapichetkul and Martin fired their service weapons at Cooke.

Blanchard fired one round at Cooke from his Smith and Wesson M16A1 police rifle from a distance of approximately 58 feet.

Martin shot six rounds at Cooke from his Colt M16A1 5.56 police rifle from a distance of approximately 60 feet.

Rattanapichetkul fired two rounds at Cooke from his Glock .45 semiautomatic pistol from a distance of approximately 90 feet.

Munoz fired four beanbag rounds at Cooke from approximately 66 feet away.

Cooke was struck twice in the buttocks and hips by the gunfire and fell onto the sidewalk, dropping the rifle at her feet. Officers rendered the rifle safe and moved it to the planter box adjacent to where Cooke fell, as indicated in the red circle below:



A later inspection of the gun showed that Cooke's rifle was operable, but unloaded. The gun is shown below:



Cooke survived her injuries and has been charged in case number BA455241 with brandishing a firearm in the presence of a police officer and being an incompetent/prohibited person in possession of a firearm. That case is scheduled for preliminary hearing on February 14, 2018.

## **FACTUAL ANALYSIS**

## **The 9-1-1 Calls**

On March 2, 2017, Cooke made three calls to 9-1-1 and asked the police to come to her home and remove her mother from the house. The dispatcher advised Cooke that the police could not respond to a civil, family dispute.

On March 3, 2017, Cooke called 9-1-1 again and reported that her mother hit her and she wanted her mother removed from the residence. The police responded and suggested that Barbara M. leave the home and stay at a hotel.

On March 6, 2017, at 3:26 p.m., Cooke's mother called 9-1-1 and reported that Cooke was drunk and had barricaded herself inside her bedroom, with a gun. The dispatcher conversed with Cooke on the telephone and asked her to exit the residence without the gun, as LAPD and the fire department responded.

## **Statement of Barbara M.**

Barbara M. is Cooke's mother. She resides in Hawaii and was visiting Cooke at the time of the incident. Barbara M. had traveled to California two weeks prior to assist her daughter in undergoing treatment for alcoholism, at the behest of her daughter-in-law Gabriela C. Barbara M. said she was helping Cooke with a number of mental issues as well, including borderline personality disorder and depression.

In the days before the shooting, Cooke called the police to have Barbara M. removed from her home. Cooke was verbally abusive to the officer, who later advised Barbara M. to leave the residence and stay in a hotel.

On the day of the shooting, Barbara M. and Gabriela C. were attempting to take Cooke to Kaiser Hospital for alcoholism treatment. Cooke became angry and threw food out of the refrigerator.

Cooke also threatened to kill herself with a rifle she kept at the house, and ransacked the residence looking for bullets for the gun.

Barbara M. called the police and informed them her daughter was enraged and armed with a rifle. She then left the premises and was being interviewed by police officers outside of the residence when she heard gunshots. Barbara M. heard the shooting, but did not see it.

## **Statement of Gabriela C.**

Gabriela C. is the ex-wife and current roommate of Cooke. They were married eight years before divorcing and becoming roommates for the three years before the incident. She said Cooke has borderline personality disorder and has been struggling with alcoholism since their separation. Cooke expressed suicidal ideation in the past.

Approximately two weeks before the shooting, Gabriela C. noticed that Cooke was behaving more erratically and drinking heavily, so she invited Cooke's mother, Barbara M., to the residence to help take care of Cooke. Cooke, however, grew extremely angry at her mother's presence and called the police on two separate days to remove Barbara M. from the house.

On the day of the incident, Gabriela C. and Barbara M. were waiting for Cooke to calm down so they could take her to Kaiser to get medication for her alcoholism. Cooke called Kaiser around 3:00 p.m. and became enraged when Kaiser informed Cooke she would have to wait until the following day to get an appointment. Cooke started throwing the food out of the refrigerator.

Barbara M. called the police and informed them that Cooke had a gun. Garbriela C. did not see the gun on that day but had seen it in the past. Gabriela C. heard the shooting but did not see it.

## **Statement of Shellie Cooke**

Cooke was interviewed at the hospital. She was given her *Miranda* rights and invoked her right to counsel. Her invocation was unequivocal, but she nonetheless agreed to talk about the actions of the officers, and volunteered that she had purchased the rifle while living in Joshua Tree to protect herself from coyotes.

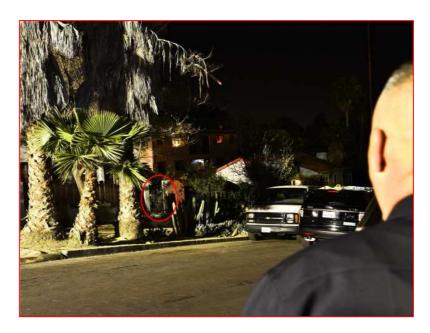
On the day of the incident, Cooke was unable to find any ammunition for the gun. She was angry and stayed in the house with her pet, following an argument with her mother and expartner. Cooke said she did not remember much from the incident, but recalls being ordered to come outside. She was angry that the incident was becoming so "dramatic." When she exited her home, she heard the officers say, "Drop it!" before hearing gunshots. Cooke said she believed the officers shot her because they thought the gun was loaded.

## **Statement of Officer Eduardo Munoz**

Officer Munoz provided a compelled statement to investigators.

Munoz was helping Rattanapichetkul in attempting to talk Cooke out of her residence by using the public address system in their patrol vehicle. Cooke emerged from the house and Munoz saw that Cooke was armed with a rifle. Cooke refused to follow numerous orders to drop the gun. Fearing that Cooke was an imminent threat to himself and his fellow officers, Munoz fired four rounds from his beanbag, less-lethal shotgun, in an attempt to disarm Cooke. Munoz was unsure if the rounds hit Cooke because she remained upright and in possession of the rifle.

Munoz's position at the time of the shooting is shown in the photograph below, with Cooke's position shown circled in red:



## **Statement of Officer James Blanchard**

Officer Blanchard provided a compelled statement to investigators.

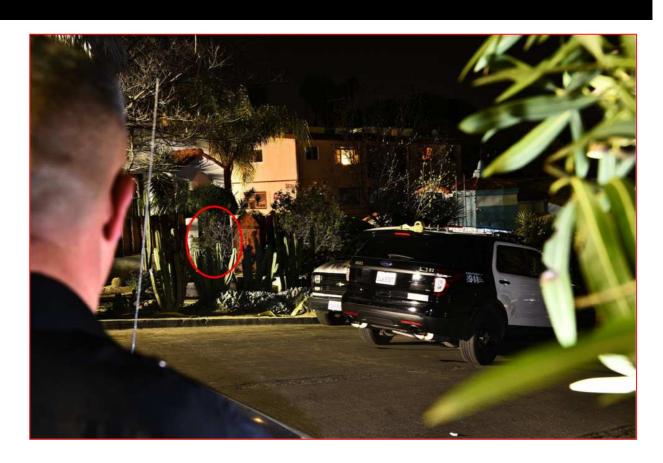


Blanchard's position is approximated in the photograph below, and Cooke's position is shown circled in red:



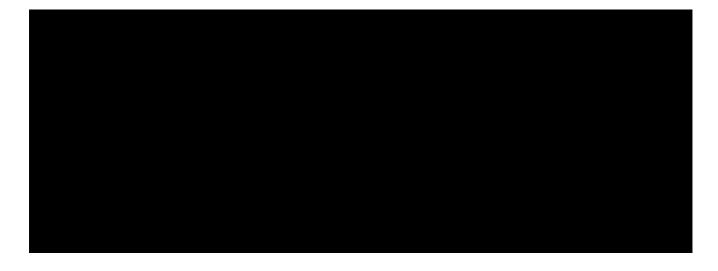
## **Statement of Officer Luis Martin**

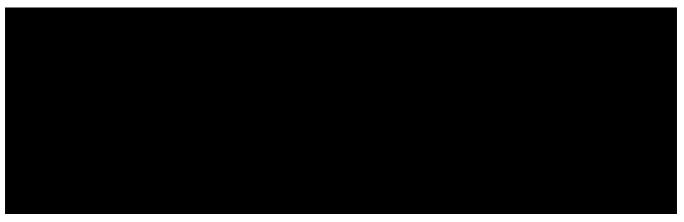
Officer Martin provided a compelled statement to investigators.



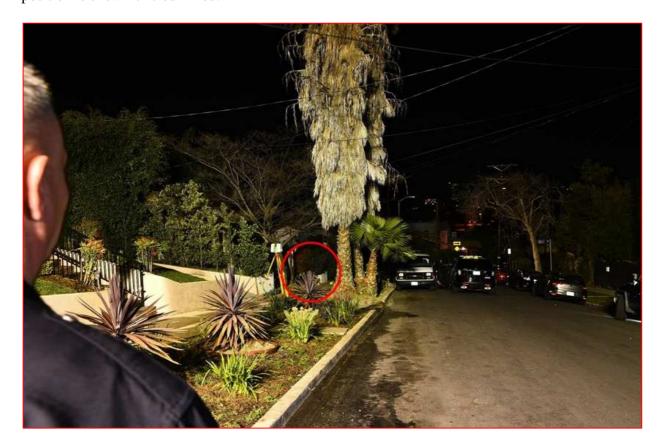
# **Statement of Officer Seree Rattanapichetkul**

Officer Rattanapichetkul provided a compelled statement to investigators.





His position at the time of the shooting is approximated in the photograph below, and Cooke's position is shown circled in red:



## **Body (BWV) and Dash Camera (DIVCS) Footage**

There is body camera and dash camera footage that captures the events leading up to the shooting, the officers' use of a public address system to encourage Cooke to surrender, the sound of gunshots, commands from the officers, the shooting positions of some of the officers, and an officer shouting, "She's got a gun!" as movement can be seen in front of Cooke's residence.

However, Cooke's actions are largely unrecorded on videotape due to various obstructions and the positions of the officers and patrol cars at the time of the shooting. The still photograph below was taken from one of the body cameras and is representative of the type of videotape

captured in this case. Rattanapichetkul is shown outside of his patrol car and Munoz and Martin are shown on the right, taking cover behind a parked car at the time of the shooting:



## **Firearms Evidence**

Cooke was armed with a Remington .22 caliber bolt-action rifle. It was test fired and determined to be operational.

Rattanapichetkul was armed with a Glock .45 caliber semiautomatic pistol. Two .45 caliber discharged shell casings were recovered from the scene and matched to Rattanapichetkul's service weapon.

Blanchard was armed with a Smith and Wesson 5.56 x 45mm caliber M-16A rifle. Martin was armed with a Colt 5.56 x 45mm caliber M-16A rifle. Seven 5.56 x 45mm discharged shell casings were recovered from the scene. One of those cartridge casings was matched to Blanchard's rifle and six were matched to Martin's rifle.

Munoz was armed with a less-lethal, beanbag shotgun. Four discharged shot shells were recovered from the scene.

#### LEGAL ANALYSIS

## The Law

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 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.* An officer is not constitutionally required to wait until he sets eyes upon a weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun. *Thompson v. Hubbard* (2001) 257 F.3d 896, 899. "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 sum, the United States Supreme Court has long held that, "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that the police 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.

## **Analysis**

Based on a review of the totality of the evidence in this case, it is evident that Shellie Cooke was suffering from mental illness, was intoxicated, had indicated her desire to commit suicide, and armed herself with a rifle. Her conduct caused her mother to flee the residence and call the police, who knew that Cooke was armed and was suffering from mental illness. Despite knowing that the police were in front of her residence and asking her to surrender peacefully, Cooke opted to exit her residence and point a rifle at one of the officers. The officers had no way of knowing that Cooke's rifle was unloaded,

The officers fired at Cooke in lawful self-defense, and defense of others.

#### **CONCLUSION**

in this matter.

