

**Officer Involved Shooting of Christopher Terry  
Los Angeles Police Department**

**Officer Charles Hulbert, #41160**

**J.S.I.D. File #18-0285**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**January 29, 2020**

## MEMORANDUM

TO:                   COMMANDER TIMOTHY NORDQUIST  
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 Christopher Terry  
J.S.I.D. File #18-0285  
F.I.D. File #F044-18

DATE:               January 29, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 7, 2018, non-fatal shooting of Christopher Terry by Los Angeles Police Department (LAPD) Officer Charles Hulbert. We have determined that Officer Hulbert acted in lawful self-defense and defense of others when he used deadly force against Terry.

The District Attorney's Command Center was notified of this shooting on July 7, 2018, at approximately 7:42 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant David Smith.

The following analysis is based on reports and other materials, including a 9-1-1 call, radio transmissions, surveillance camera recordings, police body-worn camera recordings, photographs, and audio-recorded interviews of witnesses submitted by the LAPD Force Investigation Division. Officer Hulbert's compelled statement was not considered in this analysis.

### **FACTUAL ANALYSIS**

On July 7, 2018, at approximately 4:37 a.m., Christopher Terry's mother called 9-1-1 and reported that she was concerned about Terry, who had just left their apartment located on Victory Boulevard in Van Nuys. She stated that Terry was "drunk" and possessed a gun. She also stated, "He is crying and upset, saying he wants to die and all this stuff." The 9-1-1 operator generated a radio call of an "attempt suicide." The comments of the radio call stated that the man was drunk and armed with a handgun.

Near the time of the 9-1-1 call, Terry was captured on security cameras from a nearby apartment walking westbound in the alley north of Victory Boulevard, west of Gaviota Avenue. Terry

walked with an unsteady gait and held a handgun in his left hand. He sat down on the north side of the alley, against a cinderblock wall.



Terry walking westbound in the alley holding a handgun.



Terry sitting against a cinderblock wall on the north side of the alley.

Several uniformed LAPD officers from West Valley Division responded to the call and contacted Terry's mother and other family members at their apartment. Terry's family told the officers that a gun case, normally stored in their apartment, was left on the stairs of the apartment building with the gun missing. The family was concerned because Terry was upset, and they did not want him to harm himself with the gun.

Shortly before 5:00 a.m., an officer observed Terry seated against the cinderblock wall in the alley west of their position. Several officers took cover near the mouth of the alley on Gaviota Avenue, just north of Victory Boulevard. An officer parked a marked police SUV pointing westbound at the mouth of the alley with its spotlights directed at Terry, who was approximately 100 yards away. During this time, officers made several phone calls to Terry from his mother's

cell phone. The police and Terry's mother spoke to Terry and tried to convince him to end the incident peacefully.

Hulbert, armed with a police rifle, stood behind the passenger door of the police SUV and aimed his rifle in Terry's direction. At approximately 5:07 a.m., Hubert advised other officers that he saw a handgun on Terry's lap. Near the same time, Terry told Officer Thomas Sauer via cell phone that he had placed the gun down to his left side. At approximately 5:09 a.m., Terry aimed a handgun at the officers and fired one round in their direction. The security camera video depicts Terry sitting on the north side of the alley with his back against the cinderblock wall. The video depicts smoke and light emitting around Terry's upper torso, consistent with a handgun being fired. The video did not record sound.



Flash of light from Terry's upper torso area.

Immediately after Terry fired one round, Hulbert fired nine rounds from his rifle at Terry. The video depicts Terry rolling to his right.

Body-worn videos recorded the communications between several officers immediately before the shooting. Hulbert is heard advising other officers about the location of Terry's gun and Terry's actions. Other officers near Hulbert are heard saying that Terry was pointing the handgun in their direction. The body-worn videos do not depict Terry's actions, but the gunshot fired by Terry is heard before Hulbert fired his rifle.

After the shooting, several officers approached and arrested Terry. Terry's handgun was moved and secured near the cinderblock wall where he was initially sitting. As Terry was being handcuffed, an officer picked up Terry's handgun, but immediately followed another officer's instructions to put it down. This action was captured on body-worn video.

Terry was transported to a nearby hospital, where he was treated for multiple gunshot wounds. He survived his injuries. Investigators recovered Terry's handgun, a .40 caliber Smith and Wesson pistol, which was registered to him. They also recovered one .40 caliber discharged cartridge case on the south side of the alley across from where Terry was seated when he fired his handgun. Forensic analysis confirmed that this cartridge case was fired from Terry's



handgun. Terry's handgun was examined and rendered safe at the scene. Eight cartridges were removed from the magazine, and one cartridge was removed from the chamber of the handgun. The round Terry fired struck a metal gate located between himself and the officers.



.40 caliber Smith and Wesson pistol registered to Terry.



Bullet impact on the metal gate.

Investigators examined Hulbert's rifle and concluded that he fired nine rounds. Eight of the nine 5.56 caliber discharged cartridge cases were recovered at the scene. The ninth discharged case was not located.

Terry was charged in case number LA088716 with five counts of assault with a semiautomatic firearm on a peace officer. The matter is currently pending, and in pretrial proceedings.

### **Statement of Officer Sauer**

Immediately prior to the shooting, Sauer was standing on the west sidewalk of Gaviota Avenue, behind a garage and south of the mouth of the alley. He was speaking with Terry on the phone. Terry told Sauer that he had placed the gun down on his left side. Sauer peeked around the garage wall and told Terry that he could not see the gun from that distance. Terry stated, "You want to see something? I'll show you something." Sauer observed Terry point a handgun directly eastbound down the alley in the officers' direction. Sauer took cover behind the garage and yelled, "Hey, hey he pointed it!" Sauer heard a gunshot coming from the alley. Hulbert then fired eight to ten rounds from his police rifle from behind the passenger door of the police SUV.

### **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. 3470. 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.* If the person's beliefs were reasonable, the danger does not need to have actually existed. *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 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.

When the police arrived in response to his mother's phone call, Terry was armed with a loaded semiautomatic .40 caliber pistol and seated in an alley near his apartment. Terry was likely under the influence of alcoholic beverages. His mother reported that he was "drunk," and he walked with an unsteady gait as depicted in surveillance video before the shooting. When the officers arrived and located Terry sitting in the alley with his handgun, an officer and Terry's mother communicated with Terry via phone. They expressed concern about his safety and tried to have him end the incident peacefully. Terry continued handling his handgun while speaking to Sauer on the phone. Terry told Sauer that he had placed the handgun on the ground before Terry pointed and fired one round in the direction of several officers, including Hulbert, who

were taking cover behind the police SUV. Hulbert fired his rifle to stop the actual and imminent deadly threat Terry posed when he fired his handgun.

## **CONCLUSION**

We conclude that Officer Hulbert's use of deadly force was legally justified in self-defense and defense of his partner officers. We are closing our file and will take no further action in this matter.