

**Officer Involved Shooting of Dewayne Picart
Los Angeles Police Department**

Officer Brett Cohen #40760

J.S.I.D. File #17-0062



JACKIE LACEY

District Attorney

Justice System Integrity Division

June 5, 2018

MEMORANDUM

TO: COMMANDER ALAN HAMILTON
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 Dewayne Picart
J.S.I.D. File #17-0062
F.I.D. File #F011-17

DATE: June 5, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 31, 2017, fatal shooting of Dewayne Picart by Los Angeles Police Department (LAPD) Officer Brett Cohen. It is our conclusion that Officer Cohen used reasonable force in defense of others.

The District Attorney's Command Center was notified of this shooting on January 31, 2017, at approximately 3:07 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LAPD Lieutenant Damian Gutierrez.

The following analysis is based on reports, recorded interviews, videos and photographs submitted to this office by the LAPD's Force Investigation Division. The departmentally compelled statement of Officer Cohen was not considered in this analysis.

FACTUAL ANALYSIS

On January 31, 2017, at approximately 1:50 p.m., Cedrick L. and his friend, Terrell B., were traveling westbound on the north sidewalk of Sunset Boulevard just west of Cahuenga Boulevard in Hollywood. Cedrick L. was riding a skateboard and Terrell B. was riding a bicycle. As they neared 6445 Sunset Boulevard, they saw Dewayne Picart facing eastbound on the sidewalk. Cedrick L. passed on Picart's left side and Terrell B. passed on Picart's right. As Cedrick L. was passing Picart, Picart, without warning or provocation, swung a knife and stabbed Cedrick L. in the arm, causing extensive trauma. After attacking Cedrick L., Picart swung the knife at Terrell B., who was able to block Picart's attack with his bicycle. Picart never said anything during the attacks, and the men described Picart as having a "dead" or "zombie" stare. After stabbing Cedrick L., Picart calmly began walking east on the Sunset Boulevard sidewalk.

In the meantime, LAPD Officers Brett Cohen and Marcus Kemp were transporting two runaway juveniles from the Hollywood and Highland complex to the LAPD Hollywood Station. While they were driving, Kemp asked the two boys if they were hungry; the boys responded that they had not eaten in two days. Kemp told them he would get them food from the Jack in the Box restaurant at the corner of Sunset Boulevard and Cahuenga Boulevard. Cohen drove the police vehicle to the drive-through window of the store and the officers ordered and paid for food for the boys. They received the food and Cohen drove out of the store parking lot to the traffic signal at the corner of Ivar Avenue and Sunset Boulevard at approximately 1:56 p.m.¹

At nearly the same time, Picart had walked to the corner of Sunset Boulevard and Cahuenga Boulevard. He lingered at the corner for a moment before he suddenly and violently swung his knife at a woman who was approaching the corner. The woman, who left the scene before being identified, escaped his attack, and Picart calmly and deliberately walked toward the Jack in the Box restaurant.



Figure 1: Video from CNN Building camera. Picart, seen holding the knife in his right hand, attempted to stab a woman (obscured by the traffic light) before walking into the Jack in the Box.

At approximately 1:57 p.m., Picart entered the Jack in the Box restaurant through the door that faces Sunset Boulevard. After entering, he stood near the door for a moment and then approached Dabian H., who had just gotten his food and had not yet sat down at a table. Without saying a word, Picart swung his knife at Dabian H.'s chest. Dabian H. partially blocked the blow with his left arm, but the knife pierced his arm and penetrated his chest. After he was stabbed,

¹ Portions of the incidents were captured on surveillance video from the Jack in the Box restaurant, located on the northeast corner of Sunset Boulevard and Cahuenga Boulevard, and the CNN building, located on the southwest corner of the same intersection. The timing of the incident was determined from those surveillance systems.

Dabian H. immediately ran out of the store. He, and another man who was never identified, ran through the parking lot to the LAPD vehicle driven by Cohen, which was still at the traffic signal at the intersection adjacent to the restaurant. The unidentified man arrived first and told the officers there was a man with a knife in the Jack in the Box restaurant. As Kemp exited the patrol vehicle, Dabian H. approached and told Kemp that he had been stabbed. In response to the reports of the stabbing, Cohen requested backup via his LAPD radio, armed himself with a departmentally issued M16 rifle, and both he and Kemp ran toward the restaurant.

While Dabian H. was alerting the officers, Picart, still holding the knife, walked through the restaurant and exited by way of a door that faces Cahuenga Boulevard. After exiting, Picart stood immediately outside the door. Simultaneously, Cohen and Kemp ran through the parking lot along Sunset Boulevard, and were directed by people in the parking lot to the Cahuenga Boulevard side of the store, where Picart was standing. When the officers saw Picart standing outside the store holding a knife, Kemp drew his Taser and Cohen aimed his rifle at Picart. They ordered him to drop the knife while quickly approaching him.



Figure 2: Image from Jack in the Box. Kemp and Cohen run toward Picart with their weapons drawn as Picart re-enters the store.

Before the officers were able to significantly close the distance between themselves and Picart, Picart turned and calmly but quickly re-entered the store. He walked about ten feet into the store and violently grabbed Michael B., who was sitting at a table eating lunch with a friend, by the head.² Picart was holding onto Michael B.'s head and putting his knife to Michael B.'s throat

² All witnesses agreed Picart quickly grabbed Michael B. and this fact is supported by the surveillance video; however, there was some confusion as to precisely how. The quality of the surveillance video is insufficient to show Picart's precise actions when he attacked Michael B.

when Kemp and Cohen entered the restaurant through the door Picart had just entered. Both officers shouted at Picart to drop the knife, and Picart moved toward Michael B's neck with the knife. In response, Kemp discharged his Taser and simultaneously Cohen fired two rounds from his rifle. The first shot was fired approximately six seconds after Picart re-entered the store. Michael B.'s left arm was severely cut by Picart's knife, but he was not cut on his neck.³

There were several patrons of the restaurant who watched the incident. Victor I. said he saw Picart "go directly to...Michael [B.] on the table and then he grabs him and that's where the knife comes in. [...] I truly believe that if the officer did not take the action that he did...the customer would have had his throat slit...I'm surprised that only his arm got slit." Alicia B. said Picart "came from behind [Michael B.] and had the knife on his neck...if you guys didn't come in then, he probably would have slashed his neck...he was about to get killed." Shaundel D. said the officers "told him to put his weapon down and he reached for [Michael B.] and he grabbed him [and] put the knife to his throat." Shaundel D. thought Picart was "lunging" at Michael B.'s neck when Cohen fired.

The witnesses and victims all agreed Picart had a "blank" look on his face and did not say a word during the incident.



Figure 3: The knife Picart used.

Multiple teams of Los Angeles Fire Department personnel responded to the scene and transported Michael B., Dabian H. and Cedrick L. to the hospital. Picart was pronounced dead at the scene.

An autopsy was conducted by Los Angeles County Deputy Medical Examiner Doctor Matthew Miller. Dr. Miller noted Picart had two bullet wounds in his upper torso which were rapidly fatal

³ While Picart's attack on Michael B. was partially captured by surveillance video, it happened so violently and quickly that it is impossible to discern when in the attack Picart stabbed Michael B. One witness believed it occurred after Cohen shot Picart, one believed it occurred before. Michael B. told investigators that the first time he was fully aware of Picart was after Picart had been shot.

and one wound on his right wrist. However, Dr. Miller was unable to determine if the two entry wounds in his torso were caused by independent shots, or if one bullet impacted Picart's wrist and fragmented, causing two entry wounds into his torso.

The witness statements, audio obtained from a responding LAPD vehicle, and the presence of only two cartridge casings confirm Cohen fired two rounds in quick succession. There is no evidence that the bullets struck anything other than Picart.

LEGAL ANALYSIS

California law permits any person to use deadly force in the defense of others if he actually and reasonably believes that a person is in imminent danger of great bodily injury or death. CALCRIM No. 3470; *see also* 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. In protecting 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.

In this case, LAPD officers were told Picart was in a restaurant full of people, armed with a knife and had just stabbed someone in the chest. When they ran to the scene to determine what had occurred, they located Picart, still holding the knife, standing outside of the restaurant. Picart's response to the officers ordering him to drop the knife was to turn back into the restaurant and attack a man who was sitting down and eating lunch. The officers ordered Picart again to drop the knife, and Cohen opened fire when Picart "lunged" toward the throat of the victim with his knife. Because the officer shot at an armed man who was apparently attempting to murder someone in his presence, the officer acted reasonably, and therefore lawfully, in defense of others.

CONCLUSION

We conclude that Officer Brett Cohen used lawful force in the defense of others when he shot Dewayne Picart. We are closing our file and will take no further action in this matter.