

**Officer Involved Shooting of Johnny Anderson
Los Angeles County Sheriff's Department**

Deputy Karlos Millan, #489613

J.S.I.D. File #15-0330



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 11, 2016

MEMORANDUM

TO: CAPTAIN STEVEN KATZ
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Johnny Anderson
J.S.I.D. File #15-0330
L.A.S.D. File #015-13224-1352-013

DATE: August 11, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office (LADA) has completed its review of the July 5, 2015, fatal shooting of Johnny Anderson by Los Angeles County Sheriff's Department (LASD) Deputy Karlos Millan. We have concluded that Deputy Millan acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 11:00 p.m., on July 5, 2015. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, forensic science firearms analysis reports, photographic evidence and witness statements prepared by the LASD and submitted to this office by LASD Sergeant Robert Martindale. The voluntary statements of Deputy Millan were considered in this analysis.

FACTUAL ANALYSIS

On July 5, 2015, a 9-1-1 caller saw Kathleen and Johnny Anderson, along with another male, enter a vacant house at 12248 215th Street in the City of Hawaiian Gardens.¹ The 9-1-1 caller, believing they were gang members, called to report the trespass and said they were smoking and drinking in the house. LASD dispatch broadcast the trespass call and Deputy Marcos Esquivel was assigned to respond.² Deputies Karlos Millan and Christopher Jauregui, who were on patrol in full uniform and a marked patrol car, heard the broadcast and responded to assist. While enroute, Esquivel directed Millan and Jauregui to provide a containment on 216th Street, one block south of the vacant house.

¹ Kathleen Anderson admitted that she and her husband, Johnny Anderson, had been homeless and occupying the vacant house for two days.

² The broadcast stated that several "415G's were inside smoking and drinking." No description of the term "415G's" was provided in the investigation, however, as explained later, Millan had previously responded to the vacant house for trespassing calls involving Hawaiian Gardens gang members. 415 is the Penal Code section that includes unlawful fighting and disturbing the peace.

Millan and Jauregui arrived, and Jauregui covered the parking lot at the apartment complex located at 12251 216th Street while Millan proceeded on foot to 12247-12249 216th Street, a duplex located directly south of the vacant house where the trespass call originated.³ A patrol helicopter operated by Aero Bureau Pilot Deputy Charles Gonzalez and Tactical Flight Deputy Russell Helbing also arrived, orbited over the area and advised the deputies of their observations. As the deputies were responding, Johnny Anderson had fled from the vacant house and entered the rear yard of the duplex on 216th Street.⁴

Efrain Q [REDACTED], a resident of the rear residence of the duplex, heard the helicopter flying above. Since the helicopter's light was shining into his room, Q [REDACTED] looked outside his bedroom window towards the rear of the property and saw Johnny Anderson walk from the side of the detached garage, stand and look around in the backyard. Q [REDACTED] did not recognize Anderson, who appeared to be alone.⁵ Q [REDACTED] went to his parents and told them that Anderson was in the backyard, and his father, Ancelmo Alvarez, told him to call 9-1-1. Q [REDACTED] called 9-1-1 and reported a prowler at the residence. While Q [REDACTED] was speaking with the 9-1-1 operator, Alvarez saw that Millan was standing near the entrance to his driveway on the west side of the residence. Simultaneously, his wife alerted him that someone was knocking on the door on the east side of his residence. Alvarez went to the east door and saw Anderson through a window in the door. Alvarez did not open the door and told Anderson to "Get away." Anderson asked Alvarez to let him come inside but Alvarez said no. Alvarez went to the door on the west side of his residence and told Millan that there was a gang member on the east side of the duplex.⁶ Millan instructed Alvarez to remain inside the house and to keep the doors locked. Moments later, Millan was informed via broadcast that Helbing had observed an individual on the east side of the house.

Millan walked eastbound across the front yard of the duplex towards a closed gate that separated the front yard and the east side of the house. Unable to see over the gate, he stepped onto a planter against the south wall of the duplex. Millan withdrew his service weapon, peered over the gate and did not observe anyone on the east side of the house as he looked northbound. Believing that the suspect might be crouched down below him and right behind the gate, Millan focused on that area but was initially unable to see anything because it was too dark. As Millan continued looking downward behind the gate and moving his firearm over the top of the gate, Anderson "popped" up out of the dark area immediately behind the gate and grabbed at Millan's firearm. Fearing that

³ The residence at 12247-12249 216th Street is a duplex on the north side of the street. Unit 12247 is the front unit and is closest to 216th Street, and unit 12249 is the rear unit. There is a driveway on the west side of the property that extends to a detached garage in the rear, and a side yard on the east side of the property that is separated from the apartment complex at 12251 116th Street by a five foot, seven inch tall cinderblock wall. The duplex has motion sensor lighting and there are streetlights in the area. Several trees line the cinderblock wall. The front door of the rear unit is on the west side of the property and opens up to the driveway. An eleven inch tall curved brick planter runs adjacent to the south wall of the residence, and ends at a wooden gate that separates the front yard from the east side of the property. The wooden gate, which opens, is five feet, ten inches tall and three feet wide. There is a small shed in the east side yard that is in the corner of the cinderblock wall and the wooden gate. The top of the shed extends higher than the cinderblock wall.

⁴ Kathleen Anderson said he fled because he was the subject of an injunction imposed against Varrio Hawaiian Gardens gang members and did not want to go to jail. Johnny Anderson had been served with the injunction in Los Angeles Superior Court case number BC375773 on March 31, 2009, which prohibited him from trespassing on or in any property.

⁵ Q [REDACTED] described Anderson as a male Hispanic with a shaved head, thin build and wearing a tank top. Anderson actually wore shorts and no shirt.

⁶ Alvarez told investigators that he only motioned to Millan that there was someone on the east side of the residence but Millan said Alvarez spoke to him in Spanish.

Anderson was going to take his firearm and shoot him and the other deputies, Millan fired one round at Anderson.⁷ Anderson stood up and Millan ordered him to the ground. Anderson complied and sat down. Jauregui arrived and Millan stepped back to radio for medical assistance and to advise that he had been involved in a shooting.⁸

Los Angeles Fire Department paramedics arrived, rendered medical treatment and pronounced Anderson dead at 9:58 p.m. On July 9, 2015, Los Angeles County Coroner Deputy Medical Examiner Keng-Chih Su performed a postmortem examination of Anderson's remains and determined Anderson suffered a single gunshot wound to the chest. An analysis of the wound showed that the projectile traveled from front to back, downward and slightly left to right.

An analysis of gunshot residue samples collected from Anderson's body revealed that he had many characteristic particles of gunshot residue on his right hand and several consistent particles of gunshot residue on his face. The presence of gunshot residue on Anderson's hand and face suggests that Anderson may have discharged a firearm or was otherwise in an environment of gunshot residue.⁹

Statement of Deputy Karlos Millan

On July 5, 2015, Deputy Millan worked as a Field Training Officer with his trainee, Deputy Christopher Jauregui. Millan and Jauregui were in uniform and on patrol in a marked black and white patrol car in the City of Hawaiian Gardens. Deputies in another patrol unit were assigned to respond to a trespassing call in a vacant home located at 12248 215th Street, and Millan instructed Jauregui to add himself and Millan to the call. Millan was familiar with the vacant house because he had responded to it on previous occasions for trespassing calls involving Hawaiian Gardens gang members.¹⁰ The other deputies advised Millan and Jauregui to respond to 216th Street to provide a containment south of the vacant house. Jauregui parked the patrol unit in front of the driveway of an apartment building located at 12251 216th Street, and he and Millan exited the vehicle. An air unit also responded overhead, and Millan coordinated with Deputy Helbing in the air unit to

⁷ A post-incident examination revealed that Millan's departmentally issued Beretta 9 millimeter service weapon was loaded with one round in the chamber and fourteen rounds in the magazine. Millan's service weapon was normally loaded with one round in the chamber and fifteen in the magazine; this is consistent with Millan having fired one round during the officer-involved shooting.

⁸ At the time of the incident, Jauregui was still positioned in the parking lot of the adjacent apartment complex and did not witness the shooting. Also, due to the noise of the helicopter, Jauregui was unable to hear anything prior to the round being fired. Helbing had initially observed Anderson sitting on steps located on the east side of the property and then walk southbound in the direction of the gate. As Anderson walked in the direction of the gate, Helbing lost sight of him due to trees and vegetation blocking his view. Helbing observed Millan in the front yard approach the gate, walk away from it and heard him request paramedics and advise that he had been involved in a shooting. Shannon Huffman, Fabian Gonzales and Steven Rivera were standing in the front of their residence and watched from directly across the street. They observed Millan step onto the planter, peer over the gate, bring his firearm up and immediately heard one round fired; each reported that they could not see Anderson because the gate was closed prior to Millan firing one round. Huffman and Gonzalez believed Millan yelled something prior to firing the round. Huffman could not understand what Millan yelled and Gonzalez thought Millan may have yelled, "Oh shit!" or "Oh crap!" Rivera said he did not hear Millan say anything due to the noise from the helicopter. Rivera also said Millan appeared startled, scared or possibly surprised that Anderson was right behind the gate. Following the shooting, Anderson was observed to be holding a pack of cigarettes and a lighter in his left hand.

⁹ Although the analysis concluded that Anderson may have discharged a firearm due to the presence of gunshot residue on his hand and face, there is no evidence that Anderson discharged a firearm during the incident.

¹⁰ The vacant home had numerous calls for service regarding gang activity.

confirm that he was at the correct location. Jauregui approached the parking lot of the apartment building and Millan approached the duplex located next door at 12247-12249 216th Street, which was directly south of the vacant house.

As Millan stood in front of the duplex, he heard a broadcast over the radio that indicated a female was being detained at the vacant house and a request for assistance with potential individuals inside the house. Shortly thereafter, Millan received a broadcast indicating there was a prowler at the duplex. Ancelmo Alvarez, a resident of the rear unit, opened the front door to the residence, located on the west side of the property, and waived Millan over. Millan pointed to his eyes and signaled to Jauregui to keep an eye out, and then approached Alvarez. Alvarez told Millan in Spanish that there was a gang member on the east side of the duplex. Millan instructed Alvarez to remain inside the house and to keep the doors locked. Millan advised via radio that there was an individual on the east side of the house, and he was informed that the air unit had observed an individual on the east side of the duplex.

Millan walked eastbound across the front yard of the duplex towards a closed gate that separated the front yard and the east side of the house. To see over the gate, he stepped onto the planter that ran along the south wall of the duplex and ended at the gate.¹¹ Facing the wall, Millan withdrew his service weapon with his right hand and held onto the wall of the duplex with his left hand.¹² He peered over the gate looking northbound and did not observe anyone on the east side of the house.¹³ Believing that the suspect might be crouched down below him and right behind the gate, Millan began to focus on that area. Initially unable to see anything in the area right behind the gate, Millan began looking downward behind the gate and moving his firearm over the top of the gate. As Millan looked over the gate, Anderson “popped” up out of the dark area behind the gate and grabbed at Millan’s firearm.¹⁴ Fearing that Anderson was going to take his firearm and shoot him and the other deputies, Millan fired one round at Anderson.

After Millan fired the round, Anderson stood up and Millan observed that the gate had come ajar. Millan opened the gate further and ordered Anderson to the ground. Anderson sat down and slumped over. Jauregui arrived and Millan stepped back to broadcast that he had been involved in an officer-involved shooting.¹⁵

¹¹ Millan is five feet, ten inches tall.

¹² Fabian Gonzalez said that Millan held his flashlight in his left hand and illuminated the area with it. Huffman said Millan was not holding a flashlight. Huffman also said that Millan could not have been holding onto the gate with his left hand because of the way he was standing on the planter, but she was unsure what his left hand was doing. Rivera said Millan touched the wall of the duplex with his left hand to maintain balance.

¹³ As Millan looked over, the top of the gate was approximately at his clavicle and his firearm remained behind the gate. Millan said the area had dim lighting at the time but was not completely dark. The helicopter was orbiting north of the gate and its spotlight was not focused on the area behind the gate. Fabian Gonzalez and Steven Rivera also reported that the helicopter spotlight was not illuminating the gate area, although Shannon Huffman said the entire area was illuminated.

¹⁴ Millan said Anderson “popped up” because he just appeared from the dark area behind the gate. Millan could not determine if Anderson had been kneeling or crouching down before he “popped up”, but said that he would have been able to see the top of Anderson’s head had Anderson been standing up. Anderson was five feet, eight inches tall. Millan did not know which hand Anderson used to grab at the firearm, but his hand came within inches of Millan’s firearm.

¹⁵ Millan knew that a deputy arrived immediately after he fired the round but he was focused on Anderson and did not know which deputy it was.

Additional Information

The duplex is equipped with surveillance cameras affixed to the eaves on the southwest, northwest and northeast corners of the residence, however they were non-operational and only installed as a deterrent. Surveillance cameras attached to the residence across the street from the location of the incident were not positioned to capture activity outside of its property and did not capture the officer-involved shooting.

On July 8, 2015, Ralph Rios, an attorney representing Anderson's family, told a Los Angeles Times reporter that a neighbor watching from a balcony saw Anderson putting his arms up trying to surrender when the deputy shot him without a verbal warning. According to Rios, the neighbor saw the deputy shoot Anderson from about twenty feet away, and that Anderson was too far away to have reached for the deputy's handgun. Investigators repeatedly contacted Rios to interview the witness, however Rios failed to reply. Rios also failed to respond to requests by the Los Angeles District Attorney's Office to provide the witness information. To date, the witness has not been identified, nor has Rios or any representative of the Anderson family provided investigators with a statement or contact information for the witness.¹⁶

Investigators re-contacted the residents of the adjacent apartment building with west-facing units on the second floor to locate potential witnesses.¹⁷ Investigators interviewed the residents of apartments "■" and "■", and none reported observing the officer-involved shooting.¹⁸ Investigators took photographs of the location of the shooting from the second floor shared balcony area of the apartment building. The view of the location of the shooting from the second floor balcony is obstructed by trees and additional vegetation on the east side of the duplex. The shed depicted in the photographs, which is taller than the cinderblock wall, also obstructs the view from the second floor of the adjacent apartment building. Investigators also contacted the residents of the duplex located across the street from the scene of the shooting at ■ 216th Street, and none of the residents observed the incident.¹⁹

Investigators returned to the scene of the incident to determine whether an individual could successfully secrete themselves behind the closed gate, without being observed from the position that Millan described he was located. Investigator Quilmes Rodriguez, who is six feet, one inch tall crouched in the corner behind the gate and was not observed in Sergeant Martindale's line of sight as he stood in the position described by Millan.²⁰

On July 15, 2015, at the request of the Anderson family, Dr. Howard Oliver conducted a postmortem examination of Anderson's remains. Oliver's report was submitted to the LADA for

¹⁶ The Anderson family was subsequently represented by Arnoldo Casillas, who indicated that he had obtained statements from Shannon Huffman, Fabian Gonzalez and Steven Rivera. LASD investigators and the LADA contacted Casillas and requested that he provide any witness statements. To date, Casillas has failed to provide any witness statements, therefore they were not evaluated and included in this investigation.

¹⁷ The apartment building has a large, west-facing shared balcony or patio area that is accessible by occupants in units "■", "■" and "■". On the date of the incident, the apartment complex was canvassed for witnesses. None of the residents contacted reported observing the shooting.

¹⁸ During the original canvass for witnesses on the date of the incident, there was no answer at unit "■". Investigators were unable to contact the residents of unit "■".

¹⁹ The duplex has two second story balconies that face north towards the scene of the shooting.

²⁰ This re-creation of the incident was conducted based on the descriptions provided during the interviews with Millan, however it was conducted during daytime hours.

consideration by Arnolando Casillas, the Anderson family attorney.²¹ Oliver determined that Anderson suffered a single gunshot wound to the chest. Oliver found that the projectile traveled from front to back and downward. Oliver did not find gunshot residue or powder burns on the actual gunshot wound.²² Oliver opined that the lack of gunshot residue or powder burns indicated that Anderson was shot from more than two feet away, and that the origin of the shot most likely originated from a slightly greater height than the decedent, or the decedent may have bent slightly forward prior to the shot.²³

Millan's Beretta handgun was tested to determine the maximum "end point" from which gunshot residues are deposited after discharge. Utilizing various known muzzle to target distances, it was determined that while some minimal gunshot residue particles were observed at a muzzle to target distance of twenty-four inches, no gunshot residues were observed at a muzzle to target distance of thirty inches.

LEGAL ANALYSIS

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.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.*

"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.

"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 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.

²¹ Casillas also submitted a power-point slideshow based on the statements he obtained from Huffman, Gonzalez, Rivera and Oliver's findings. As previously explained, Casillas failed to provide the witness statements, therefore they could not be considered in this analysis.

²² Oliver's analysis appears to be based solely on a visual analysis of the entrance to the site of the wound, and was not the chemically or instrumentally detected primer and propellant analysis of residues that is the standard method for gunshot residue analysis on the body or clothing. Additionally, Deputy Medical Examiner Su did not find soot or stippling at the entrance to the gunshot wound, which is consistent with Oliver's findings.

²³ Oliver's report does not address the presence of gunshot residue on Anderson's hand or face.

CONCLUSION

The evidence examined in this investigation shows that Johnny and Karen Anderson were trespassing in a vacant house at 12248 215th Street, and Johnny Anderson fled when deputies responded to a trespassing call of gang members drinking and smoking at the location. Anderson fled southbound, into the rear yard of a duplex located at 12247-12249 216th Street, where he was seen by Efrain Q [REDACTED]. After notifying his father, Ancelmo Alvarez, that Anderson was in the rear yard, Q [REDACTED] called 9-1-1 to report Anderson.

Deputies Karlos Millan and Christopher Jauregui responded to assist on the original trespass call and provided a containment on 216th Street, in front of the duplex and the adjacent apartment complex. Millan was familiar with the vacant house because he had responded to previous trespass calls regarding Hawaiian Gardens gang members. Anderson knocked on the east door of Alvarez' residence and Alvarez told him to "Get away" and refused to let him inside. Millan received an updated broadcast that there was a prowler on the east side of the duplex and then Alvarez told him that there was a gang member on the east side of the duplex. Shortly thereafter, Tactical Flight Deputy Russell Helbing broadcast that he saw someone on the east side of the duplex.

Walking eastbound across the front yard of the duplex to investigate, Millan approached a closed gate separating the front yard and the east side of the house. Millan stepped onto a planter to see over the gate, withdrawing his service weapon. He peered over the gate but did not initially observe anyone. Believing that the suspect might be crouched down below him right behind the gate, Millan looked downward behind the gate while raising his firearm over the gate. Anderson sprung up out of the dark, grabbing at Millan's firearm and coming within inches. In reasonable fear of death or great bodily injury to his own life and to the lives of the other deputies, Millan fired his service weapon once at Anderson.

Millan's statements regarding Anderson successfully concealing himself behind the gate, then springing up and grabbing for Millan's service weapon with one hand and coming within inches of it is consistent with the presence of gunshot residue on Anderson's face and right hand. The analysis of Millan's service weapon and the maximum "end point" from which gunshot residues are deposited after discharge being between twenty four and thirty inches corroborates Millan's statements that the shooting occurred within a very short distance.

Given the rapidly evolving, life threatening situation that confronted Deputy Millan, we conclude that he acted lawfully in self-defense. We are therefore closing our file and will take no further action in this matter.