

**Officer Involved Shooting of Cesar Juarez
West Covina Police Department**

Officer Eric Melnyk, #423

J.S.I.D. File #15-0336



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 31, 2016

MEMORANDUM

TO: CHIEF DAVE FAULKNER
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Cesar Juarez
J.S.I.D. File #15-0336
L.A.S.D. File #015-00046-3199-013

DATE: August 31, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 3, 2015, fatal shooting of Cesar Juarez by West Covina Police Department (WCPD) Officer Eric Melnyk. It is our conclusion that Officer Eric Melnyk acted in lawful self-defense.

The District Attorney's Command Center was notified of this shooting on July 3, 2015, at approximately 10:18 p.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on investigative reports, forensic science firearms analysis reports, photographic evidence and witness statements submitted to this office by Los Angeles County Sheriff's Department (LASD) Detectives Angus Ferguson and Teri Bernstein. The reports include photographs, videos, audio-recorded interviews of witnesses, and radio transmissions. The voluntary statement of Officer Melnyk was considered in this analysis.

FACTUAL ANALYSIS

On July 3, 2015 at approximately 8:00 p.m., brothers Jorge and Cesar Juarez were living at [REDACTED] Sentous Avenue, Apartment # [REDACTED], in the City of West Covina. The brothers got into a dispute at their residence about Cesar leaving the location with a butcher knife. Jorge told Cesar he could not leave with the knife. The dispute escalated and resulted in Cesar stabbing Jorge in the back

with the knife. Cesar left the apartment armed with the knife, and Jorge called 9-1-1 to report the incident.¹

WCPD Officers Eric Melnyk, Justin Schienle, and Richard Forman were dispatched to the stabbing incident.² While enroute to the location, Melnyk received updated information from dispatch that the suspect had left the residence on foot and was armed with a butcher knife.³ As Melnyk drove east onto Valley Boulevard from Nogales Avenue, he saw Cesar Juarez wearing tan shorts, a black shirt and carrying a tan backpack. Melnyk contacted dispatch to obtain additional information regarding the suspect's description because of the discrepancy in the color of Juarez' shirt. Juarez had long hair, and Melnyk confirmed with dispatch that the stabbing suspect had long hair. As Juarez walked on the south sidewalk towards Nogales Avenue, Melnyk yelled for him to stop. Juarez walked away and did not look at Melnyk. Melnyk exited his car and again told Juarez to stop, but he continued to walk away.

Melnyk then observed that Juarez held a butcher knife in his right hand, with the blade upward and partially concealed in his clothing. Melnyk told Juarez that he would deploy a Taser if he did not stop walking. Melnyk pulled out the Taser, told Juarez that he saw the knife and that he would use the Taser if Juarez did not drop the knife. Juarez, who was facing Melnyk and stood five to six feet away, refused to drop the knife. Melnyk deployed the Taser at Juarez, who fell to the ground and continued to hold the knife. Juarez began to stand up and Melnyk again cycled the Taser. Juarez leapt to his feet with his right arm raised with the knife above his shoulder and charged at Melnyk, who had withdrawn his service weapon. Melnyk fired four rounds at Juarez, who fell to the ground.⁴

Officer Schienle exited his patrol car, ran up to Juarez and kicked the knife out of his hand.⁵

West Covina Fire Department paramedics arrived, rendered medical aid and pronounced Juarez dead at 8:17 p.m. On July 6, 2014, Deputy Medical Examiner Kevin Young performed a postmortem examination of his remains and determined that he suffered three gunshot wounds. The wounds were located in his chest, head, and the left side of his back.⁶ Juarez also suffered a graze wound to his back.

¹ Jorge Juarez later told WCPD that Cesar was not taking his schizophrenia medication, was acting "mixed up" and Jorge believed Cesar would get hurt, hurt himself or hurt someone.

² Melnyk, who was in full uniform and drove a marked SUV patrol vehicle with its lights and sirens activated, was the primary responding unit. The initial broadcast, which did not include a description of the suspect, stated that the victim had been stabbed and beaten by his brother.

³ Dispatch described the suspect as a male, Hispanic, twenty-seven years of age, wearing a white shirt, khaki pants and carrying a tan backpack. Dispatch did not state that the suspect was wearing short pants.

⁴ A post-incident examination revealed that Melnyk's departmentally issued Glock .45 caliber service weapon was loaded with one round in the chamber and nine rounds in the magazine. Melnyk's service weapon was normally loaded with one round in the chamber and thirteen in the magazine; this is consistent with Melnyk having fired four rounds during the officer-involved shooting.

⁵ The knife is a kitchen knife with a black plastic handle and an approximate eight inch blade.

⁶ The direction of the wound to Juarez' chest was front to back and downwards, and the direction of the wound to his head was left to right and downwards. The direction of the wound to Juarez' back was left to right and downwards. The entrance of the wound to the back is depicted in photographs on Juarez' left side.

Statement of Officer Eric Melnyk

On July 3, 2015, Melnyk was working as a uniformed patrol officer in a marked SUV patrol car.⁷ He received a broadcast of a stabbing incident in which the preliminary information was that the victim had been stabbed by his brother. Melnyk, who was assigned as the primary officer, responded to the location with his lights and sirens activated, and while driving to the call he received updated information that the suspect, who was described as a male, Hispanic, twenty seven years old wearing tan shorts, a white shirt and carrying a backpack, had left the location armed with a butcher knife.

As Melnyk turned onto Valley Boulevard from Nogales Avenue, he observed Juarez wearing a black shirt, tan shorts and carrying a tan backpack. Melnyk noticed that Juarez had long hair, so he contacted dispatch to ask whether the stabbing suspect had long hair. Once dispatch confirmed with the victim that the stabbing suspect had long hair, Melnyk decided to contact Juarez and broadcast that he was on the southeast corner of Valley Boulevard and Nogales Avenue.

Juarez walked on the sidewalk and Melnyk pulled his patrol car near Juarez' location, but Juarez did not appear to notice him. Melnyk told Juarez to stop but he continued to walk away and did not look at Melnyk. Melnyk exited his car and again told Juarez, who was less than ten feet away, to stop. Juarez continued to walk away. Melnyk observed that Juarez held a butcher knife in his right hand, with the blade facing upward and partially concealed in his clothing. Melnyk again told Juarez to stop or he would deploy his Taser. Juarez turned to face Melnyk, and Melnyk told Juarez that he saw the knife. Melnyk told Juarez to drop the knife or Melnyk would use the Taser. Juarez, who faced Melnyk, did not drop the knife and continued to stare at Melnyk. Melnyk again ordered Juarez to drop the knife but he ignored Melnyk.⁸

Juarez took one to two steps backwards, and Melnyk deployed the Taser at him.⁹ Juarez fell to the ground while continuing to hold the knife. Melnyk cycled the Taser for five seconds and told Juarez to drop the knife. Juarez began to get up and Melnyk cycled the Taser for another five seconds. Juarez still held the knife and again attempted to stand up. Melnyk believed, though was uncertain, that he cycled the Taser a third time while continuing to tell Juarez to drop the knife.¹⁰ During the last phase of the cycle, Melnyk withdrew his service weapon and held it in his left hand.¹¹ Juarez leapt up while holding his arms out to his sides and aggressively charged at Melnyk.¹² Juarez was holding the butcher knife above shoulder height as he leaned forward and

⁷ Melnyk worked alone in the patrol car.

⁸ Melnyk believed that he told Juarez at least three times to drop the knife and warned him he would use the Taser. At some point during his commands, Juarez replied, "No." Melnyk also described Juarez as having a scowl on his face and a "dead-eyed" stare.

⁹ Juarez stood five to six feet away from Melnyk when the Taser was initially deployed. Taser-cam video depicts Melnyk yelling at Juarez to drop the knife as Juarez points a finger at Melnyk with his left hand and takes one step backwards. The Taser probes strike Juarez in the torso, he falls to the ground on his back with the knife in his hand and Melnyk continues to tell him to drop the knife. The video, which is thirteen seconds in length, does not capture the entire incident.

¹⁰ The Taser records show that the Taser was triggered a total of three times for a period of eight seconds, three seconds and five seconds.

¹¹ Melnyk is left-handed.

¹² Melnyk was uncertain whether the blade of the butcher knife was pointed upward or downward.

charged at Melnyk. Melnyk dropped the Taser. Fearing that Juarez was going to stab or kill him with the knife, Melnyk fired three rounds at Juarez.¹³

Juarez fell down and dropped the knife. Melnyk attempted to advise other units that he had been involved in an officer-involved shooting but discovered that his radio was not turned on. Juarez was handcuffed and paramedics responded to their location.

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.

¹³ Officer Forman, while approaching the location and still seated in his vehicle, saw Melnyk with his service weapon drawn and then observed three muzzle flashes. Officer Schienle arrived at the location of the incident and saw Juarez crouching or falling backwards. Schienle then heard Melnyk firing his service weapon, which Schienle initially thought was Melnyk's Taser. Witness Rosa Chavez, who was in a vehicle approximately one hundred and fifty to two hundred feet north of the intersection at Valley Boulevard and Nogales Avenue observed Juarez on the ground with Taser wires extending from his body and “convulsing” approximately fifteen feet from an officer. Juarez rose to his feet and staggered within six feet of the officer. The officer fired one round and circled around Juarez, who continued to stagger towards the officer. Chavez could not see if Juarez held anything in his hands because his back was to her, nor was she close enough to hear if Melnyk issued any commands. Witness Yaskel Escalona was stopped in a vehicle at the intersection of Valley Boulevard and Nogales Avenue when he observed Melnyk approach Juarez. Escalona could not hear what was said initially, but heard Melnyk repeatedly tell Juarez to stop. Escalona saw Juarez continue to walk towards Melnyk and ignore the commands. Juarez fell to the ground when Melnyk deployed his Taser, but Juarez immediately returned to his feet and aggressively charged at Melnyk while holding a large knife above his head in a threatening manner. Melnyk fired three to four rounds at Juarez from a distance of three to five feet. Escalona believed Juarez was going to hurt someone with the knife.

CONCLUSION

The evidence examined in this investigation shows that Cesar Juarez stabbed his brother, Jorge Juarez, with a knife when Jorge attempted to prevent Cesar from leaving their residence with the knife. Cesar left the residence armed with the knife and Jorge reported the incident to 9-1-1.

Officers Eric Melnyk, Justin Schienle, and Richard Forman responded to the stabbing incident, and dispatch continued to broadcast updates as to the suspect's description and that he had left the location on foot and was armed with a butcher knife. As Melnyk drove east onto Valley Boulevard from Nogales Avenue, he saw Cesar Juarez, who partially matched the description he was given. Melnyk confirmed that the stabbing suspect had long hair and decided to contact Juarez. Melnyk pulled his patrol car near Juarez and yelled for him to stop, but Juarez walked away and did not look at Melnyk. Melnyk exited his vehicle and again told Juarez to stop, but he continued to walk away.

Melnyk saw that Juarez held a butcher knife in his right hand, and he told Juarez that he would deploy the Taser if he did not stop walking and comply with his orders. Arming himself with his Taser, Melnyk told Juarez that he saw the knife and that he would use the Taser if Juarez did not drop the knife. Juarez refused to drop the knife. Melnyk deployed the Taser at Juarez, who fell to the ground and continued to hold the knife. The Taser having failed to incapacitate him, Juarez began to stand up and Melnyk cycled the Taser again. The Taser again failed to incapacitate Juarez, who jumped to his feet and aggressively charged at Melnyk with the knife raised in the air. In reasonable fear of death or great bodily injury, Melnyk fired his service weapon four times at Juarez.

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