

**Officer Involved Shooting of James Ward
Los Angeles Police Department**

**Sergeant Gregory Probst, #31376
J.S.I.D. File 17-0501**



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District Attorney

Justice System Integrity Division

November 4, 2019

MEMORANDUM

TO: COMMANDER ROBERT E. MARINO
 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 James Ward
 J.S.I.D. File #17-0501
 L.A.P.D. File #F071-17

DATE: November 4, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 29, 2017, non-fatal shooting of James Ward by Los Angeles Police Department (LAPD) Sergeant Gregory Probst. It is our conclusion that Sergeant Probst acted in lawful defense of another.

The District Attorney's Command Center was notified of the shooting on October 29, 2017, at approximately 3:47 p.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on police reports, witness statements, video recordings and photographs submitted by the LAPD Force Investigation Division (FID), which was tasked with investigating the case. Sergeant Gregory Probst's compelled statement was considered in this analysis.

FACTUAL ANALYSIS

On the morning of October 29, 2017, at approximately 11:35 a.m., Los Angeles County Department of Mental Health (LACDMH) psychiatric social workers Bruce G [REDACTED] and Dulce S [REDACTED] received a call directing them to respond to [REDACTED] Psomas Way where they met with Skyeler W.¹

¹ [REDACTED] Psomas Way is a one story, single family residence. The front door of the home faces north. The backyard is located at the south end of the property and is accessible by a walkway on the east side of the property. The residence has multiple large windows on its exterior walls which make the interior and the exterior of the home visible. The living room, which can be seen through the open front door of the location, features several large windows and a glass and wood door which faces the backyard.

Skyeler W. informed them that her husband, James Ward, had been in a “drug induced psychosis” for approximately two weeks, and had been paranoid and acting irrationally.² Due to Ward’s conduct, Skyeler had left their residence at [REDACTED] Psomas Way approximately two weeks prior.

G [REDACTED] and S [REDACTED] contacted Ward who was in the front yard at the location. Ward angrily told them to leave. Due to Ward’s lack of cooperation, G [REDACTED] and S [REDACTED] were unable to conduct an evaluation of Ward’s mental health. However, G [REDACTED] and S [REDACTED] remained at the location.

At approximately 1:42 p.m., Sherry R., a mutual friend of Skyeler W. and Ward, called 9-1-1 and asked for police assistance.³ Sherry told the dispatcher that Ward was paranoid, under the influence of narcotics, belligerent and a danger to himself and others.

At approximately 1:45 p.m., the LAPD communications division placed a broadcast requesting that officers meet S [REDACTED] and G [REDACTED] at Ward’s residence.⁴ Several officers from the LAPD eventually responded to the location including Officers Kaoru Suzuki, Miguel Lara, Eduardo Rios, Christopher Walker, and Sergeant Calvin You. Suzuki and Lara were the first officers to arrive at the scene.

The officers gathered information from Skyeler W., S [REDACTED] and G [REDACTED] regarding Ward’s condition, current drug use and his past history of drug induced psychosis including the prior episode in Oklahoma wherein Ward had resisted arrest and had led officers on a pursuit. They learned that Ward had also been violent with officers in the past. Skyeler W. also stated that Ward had been punching holes in the walls of the residence with a knife. However, she did not believe that he was a threat to himself or anyone else.

Based on the information they gathered, the officers formulated a plan to approach Ward safely, communicate with him and, if necessary, detain him. The officers positioned themselves on Psomas Way near the west end of Ward’s residence and called Ward’s cell phone.

Almost simultaneously, Ward exited the front gate at [REDACTED] Psomas Way and yelled that he would kill the officers if they came into his residence. Suzuki calmly explained to Ward that he was not in trouble and that they simply wanted to ask him some questions.

Ward picked up a clump of grass and dirt, threw it towards the officers and then ran back into the home. From inside, Ward continued yelling at the officers to leave and again warned that he

² James Ward’s parents [REDACTED] called the LACDMH after being informed by Skyeler W. that Ward was experiencing drug induced psychosis. Ward’s parents informed the LACDMH dispatcher that Ward was acting paranoid and engaging in bizarre conduct such as starting small fires and destroying the interior of his home. Skyeler W. informed G [REDACTED] and S [REDACTED] that Ward had previously suffered from drug induced psychosis in Oklahoma in 2014, and was arrested by the police after leading them on a pursuit and resisting arrest.

³ Sherry and her husband Jerry were friends of Skyeler W. and James Ward. Both were present when S [REDACTED] and G [REDACTED] met with Skyeler W.; Sherry and Jerry were aware of Ward’s belligerent and erratic drug induced behavior. Jerry also told Officer Miguel Lara that Ward had access to a knife. Sherry and Jerry declined to be interviewed by the LAPD after Ward was taken into custody.

⁴ The broadcast described Ward as possibly suffering from mental illness, paranoid, hallucinating and as being under the influence of narcotics.

would kill them if they entered the location. You and the officers decided not to enter the home to detain Ward, and instead repositioned their vehicles in front of the residence and took positions of cover.

At approximately 2:27 p.m., Sergeant Gregory Probst arrived at the Psomas' location where he was briefed by You. After consulting with Pacific Division Sergeant John Marquez, You directed Suzuki to contact the LAPD Mental Evaluation Unit (MEU) to inquire whether Ward's conduct qualified him as a danger to himself or the community such that he should be detained under Welfare and Institutions Code section 5150. Suzuki was informed by the MEU that Ward did not meet the criteria for a 5150 mental health hold and that there was an insufficient basis to make entry into Ward's residence to detain him.⁵

Probst and Suzuki informed Skyeler W., who had been waiting close to the residence, that they did not have a sufficient basis to place Ward under a 5150 hold and did not have probable cause to enter their home to detain him for any crime. Skyeler W. became angry that the officers were not detaining Ward and told the officers that she was upset that Ward was allowing a man (later identified as Christopher S.) to stay at their home without her permission.

As Probst and Suzuki spoke to Skyeler W., You met with S [REDACTED] and G [REDACTED] across the street from Ward's residence. You advised them that Ward did not meet the criteria for a 5150 hold. C [REDACTED] agreed with You's assessment and informed him that he had already received instructions from his department to finish his call and leave the location.⁶

Skyeler W. grew increasingly upset that Ward was not going to be detained and she informed Suzuki that she was going to enter her home and evict Christopher S. Suzuki advised Skyeler W. that she should wait until Ward had calmed down before going in.

Skyeler W., who was upset, crying and argumentative, told Suzuki that perhaps she needed to go into the home and cause a disturbance in order for the officers to detain Ward. Skyeler W. also stated that the officers' refusal to enter the home was "bullshit" and started to walk towards the residence. Suzuki followed her, asking her not to go into the residence. Skyeler W., however, ignored Suzuki's requests and continued towards the residence as Suzuki and several LAPD officers followed behind her.⁷

Skyeler W. walked into the residence through the front door and called out to Ward. Through the open front door, Suzuki and the officers could see into the living room which had large windows and a large wood and glass door facing the backyard. Suzuki could also see Skyeler

⁵ You concurred with the MEU assessment. In addition, the attending psychiatrist at the hospital where Ward was taken after he was shot and arrested, found that Ward's behavior was drug induced and did not meet the requirements for a 5150 hold.

⁶ S [REDACTED] disagreed with You and G [REDACTED] but did not voice her opinion that Ward was a danger to others.

⁷ When G [REDACTED] and S [REDACTED] were interviewed, they confirmed that Skyeler W. threatened to enter the residence and cause a disturbance to force the officers to detain Ward. Skyeler W. was interviewed by officers after the officer involved shooting and claimed that she told officers that she was going into the house and that the officers stated that it would be a good time to enter since they were present at the location. No witness corroborates Skyeler W's claim that she entered her residence with the approval of the officers.

W. standing next to the door leading to the backyard where Ward was standing. Ward, who was holding a knife, yelled at the officers to "get out" and walked out of view into the backyard. You, Probst, Rios, Suzuki and Walker moved to different positions outside the house and attempted to locate Ward.

Moments later, Suzuki and Rios saw Ward at the southeast corner of the property walking north towards them from the backyard still holding a large kitchen knife. Suzuki and Rios ordered Ward to drop the knife.⁸ Ward did not comply, yelled expletives at the officers and walked towards the backyard outside the officers' field of vision. The officers subsequently moved back to the front of the house.

Lara, who was standing at the front door of the residence looking in, spotted Ward as he re-entered the home through the rear glass and wood door, walked through the living room and again out of sight. Moments later, the officers heard Skyeler W. screaming for help.

Believing that Skyeler W. was in danger, Suzuki, Lara, Rios, Walker, Probst and You entered the residence through the front door. Suzuki led the officers through the living room and into a narrow hallway running north and south. The hallway terminated into the northernmost bedroom of the house. A bathroom was situated on the left (west) side of the hallway and a small bedroom was situated on the right (east) side of the hallway. Unbeknown to the officers, Christopher S. was inside the small bedroom. Both the small bedroom on the east side of the hallway and the bathroom on the west side of the hallway were immediately adjacent to the northernmost bedroom.

From his position in the middle of the hallway, Suzuki could see Ward was sitting on a bed in the northernmost bedroom and Skyeler W. was seated in front of him on the floor facing the officers. Ward was holding a knife close to Skyeler W.'s throat with one hand as he wrapped his other arm around her neck to restrain her.⁹

As the officers moved north up the hallway to help Skyeler W., Ward yelled, "I'm going to kill her! I'm going to kill her!" Suzuki, who was closest to Ward, pointed his service weapon at Ward and repeatedly ordered him to drop the knife as Skyeler W. continued screaming.¹⁰ Ward did not comply and continued threatening to kill Skyeler W. Ward removed the knife from Skyeler W.'s neck and placed it at her back causing her to scream loudly.

Fearing that Ward was stabbing Skyeler W., Suzuki moved to the doorway of the bathroom on the west side of the hallway. Lara and Rios took a position behind him. Probst took a position in the doorway of the small bedroom on the east side of the hallway and Walker positioned himself inside the same bedroom in order to stand watch over Christopher S. You positioned himself in the hallway south of Probst and Walker.

⁸ Probst, who was behind Suzuki and Rios, also observed that Ward was armed with a knife.

⁹ The officers at the location had different recollections regarding the hand which Ward used to hold the knife. Skyeler W. told officers that Ward held a knife in his left hand while he wrapped his right arm around her neck in the form of a "V."

¹⁰ G [redacted] and S [redacted] who were outside the residence, heard officers ordering Ward to put his knife down. Skyeler W. also told investigators that she heard officers telling Ward to put down the knife. Additionally, Skyeler heard Ward repeatedly threaten to kill the officers if they entered his residence.

Ward stood up from the bed while still holding Skyeler W. in front of him and alternated between pointing the knife at the officers and pointing it at Skyeler W.'s throat. Ward repeatedly yelled for the officers to get out of the house as they ordered him to put the knife down. Ward also repeatedly threatened to kill the officers.

Ward walked towards the officers and then moved backwards as he held Skyeler W. at knifepoint. Suzuki maintained his position and continued to order Ward to drop his knife as he pointed his service weapon at him. Ward suddenly began moving quickly towards Suzuki.

Lara told Suzuki and the other officers to fall back. As Ward continued moving towards Suzuki, Lara grabbed the back of Suzuki's gun belt and guided him south down the hallway. Suzuki continued to point his handgun at Ward as Ward advanced towards him holding Skyeler W. at knife point.

Rios, You, Walker and Probst positioned themselves further south in the hallway as Ward advanced from the bedroom and down the hallway.

Ward also continued threatening to kill Skyeler W. Suzuki, however, did not fire his service pistol for fear that he would strike Skyeler W., whom Ward was using as a shield.

Probst fired one shot from his service pistol and struck Ward on the ear as Ward walked towards him.¹¹ Ward released Skyeler W. and stumbled backwards. Lara immediately grabbed Skyeler W. and pulled her to safety. Ward dropped the knife and moved back to the northernmost bedroom.

Suzuki, Lara and Rios followed Ward into the bedroom where they attempted to detain him. As the officers grabbed Ward, Ward resisted by twisting his body, biting, kicking, pinching and scratching the officers. After a prolonged struggle, Ward was arrested but continued to resist as officers placed him into the back of a patrol car. Ward moved around in the rear seat of the vehicle, banged his head against the window and yelled profanities at the officers and Skyeler W. as the officers waited for emergency medical services to arrive.

Ward had to be restrained on a gurney with handcuffs in order to be treated by paramedics. The paramedics determined that he was in a state of "agitated delirium" and sedated him.¹² Ward was subsequently transported to the hospital for treatment where he received six sutures for the gunshot wound to his ear. Blood samples taken from Ward at the hospital during his treatment tested positive for methamphetamine, marijuana, and benzodiazepines.

¹¹ Probst was standing near the doorway of the east bedroom approximately five feet away from Ward when he fired at him.

¹² Ward's combative and abusive behavior towards Skyeler W., the officers at the scene and paramedics was caught by an LAPD in car video surveillance system. In addition, G heard Ward yelling at officers and accusing them of "fucking" his wife Skyeler W.. Neighbors interviewed by the LAPD also described Ward's belligerent and uncooperative behavior.

Ward was later interviewed and admitted that he told officers that he would murder them if they came into his residence. Ward also admitted that he had heard the officers' orders to drop his knife but claimed that he was shot by officers after he had complied and dropped the weapon.¹³

LAPD officers later searched Ward's residence where they recovered the approximately 12-inch knife which Ward used to assault Skyeler W. Officers also found a large quantity of narcotics, items which appeared to be psilocybin mushrooms and narcotics related paraphernalia inside the home.

On October 31, 2017, Ward was charged in case SA096763 with one count of false imprisonment of a hostage in violation of Penal Code section 210.5, one count of assault with a deadly weapon in violation of Penal Code section 245(a)(1), two counts of resisting an executive officer in violation of Penal Code section 69, and one count of felony vandalism in violation of Penal Code section 594(a).

On April 30, 2018, Ward pled no contest to one count of assault with a deadly weapon in violation of Penal Code section 245(a)(1) and one count of resisting an executive officer in violation of Penal Code section 69. Ward was placed on probation for five years and ordered to serve 36 days in jail and stay away from Skyeler W. Ward remains on probation.

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.

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; *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 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. This is true even if there is no actual threat. Id.

¹³ The evidence reviewed does not support Ward's claim that he was shot by officers while unarmed. No witness, including Skyeler W., reported that Ward was shot while he was unarmed.

Though not binding in California courts, federal case law pertaining to excessive police force claims brought under section 1983 of Title 42 of the United States Code provides legal guidance regarding the criteria that should be considered in determining whether a use of police force is reasonable. Specifically, the United States Supreme Court has held that the reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. Graham v. Connor (1989) 490 U.S. 386, 396. “The ‘reasonableness’ of the 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.” Id. “The calculus of reasonableness must embody allowance for the fact that 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.” Id. at 396-97.

CONCLUSION

The evidence reviewed in this investigation shows that Ward engaged in a pattern of aggressive and violent conduct which caused Sergeant Probst to reasonably believe that lethal force was necessary to prevent him from severely injuring or killing his wife, Skyeler W.

Ward was uncooperative and very aggressive from the time he was initially contacted by mental health workers and LAPD officers. He threw dirt at the officers and repeatedly stated that he would kill them if they stepped onto his property. Ward followed these threats by arming himself with a large knife.

When Rios and Suzuki followed Skyeler W. onto the Psomas property and observed that Ward was carrying a knife, they ordered him repeatedly to drop his weapon. Probst also observed that Ward was armed. Ward refused to comply with the officers’ orders and instead walked out of their view. Ward subsequently re-entered his residence where he took Skyeler W. hostage by physically restraining her and putting the knife close to her throat.

When LAPD officers responded to Skyeler W.’s screams and observed Ward holding a knife to her throat, they repeatedly ordered him to drop the weapon. Ward again refused to comply with these orders and escalated his conduct by threatening to kill Skyeler W. Ward then moved Skyeler W. away from the bedroom towards the officers while he continued to hold the knife at her throat and use her as a shield.

Given Ward’s erratic and aggressive conduct, his threats to kill Skyeler W. and the fact that he was armed with knife, [REDACTED]

[REDACTED] In order to prevent Ward from carrying out his threat to kill Skyeler W., Probst acted quickly and fired one shot at Ward as Ward walked towards him. After shooting Ward, the officers took Ward, who was still physically aggressive, into custody without using any additional deadly force.

Taken in its totality, the evidence reviewed in this case demonstrates that Sergeant Probst acted in lawful defense of another when he used deadly force to stop Ward as he threatened his wife

with a deadly weapon. We are therefore closing our file and will take no further action in this matter.