



Sacramento County District Attorney's Office

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DATE: June 20, 2022

TO: Chief Kathy Lester
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FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case No. SPD-20-336527
Shooting Officer: SPD Sgt. Jeremiah Jarvis #3022

Persons Shot: Augustine Morales (DOB 5/14/1982)

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above-referenced officer-involved shooting. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Augustine Morales. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other documentary items. These items include Sacramento Police Department Report 20-336527, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, Sacramento County District Attorney Laboratory of Forensic Services reports, and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On November 14, 2020, Sacramento Police Department Sergeant Jeremiah Jarvis was on duty as a patrol sergeant in the North Area of Sacramento. At approximately 6:12 p.m., Sergeant Jarvis received a call regarding a large group of cars congregating in the North Area for an unknown reason. The call indicated concern that the gathering might be a "sideshow," which is an informal demonstration of automotive stunts often held in front of crowds in vacant lots or public intersections.

At the time of the call, Sergeant Jarvis was dressed in his blue SPD uniform. The uniform displayed his badge and police department patches on his sleeves. He was equipped with a

body-worn camera (BWC). Sergeant Jarvis was driving a marked patrol vehicle and was armed with a Sig Sauer 9mm pistol.

Sergeant Jarvis knew that sideshow activity had become a problem in the North Area. He finished assisting another officer on a priority call, then notified dispatch that he would respond to investigate the potential sideshow.

Sergeant Jarvis drove to the area of the call on Juliesse Avenue and Del Paso Boulevard in Sacramento. Due to the large volume of cars at the scene when he arrived, Sergeant Jarvis decided to wait for additional officers before proceeding further. Once those officers arrived, they planned to drive slowly through the event with their emergency overhead lights on to discourage those present from proceeding with the sideshow.

However, as the officers drove through the scene it became apparent that the event was not a sideshow. The officers saw that everyone present was walking towards a warehouse at 1603 Juliesse. They learned from arriving patrons that a boxing event was being held in the warehouse.

1603 Juliesse Avenue is in an industrial area of North Sacramento. The property consists of three rectangular warehouses arranged side-by-side. The entry to the property is a chain-link fence with a rolling chain-link gate. The entrance to 1603 is a roll-up door that faces east.

Sergeant Jarvis parked his patrol vehicle and walked with two other officers to contact the organizer of the event. They learned it was a community boxing event called, "Guns Down, Gloves Up," aimed at discouraging gun violence.

Sergeant Jarvis released the other two officers to respond to pending calls for service. Sergeant Jarvis decided he would remain in his car at the entrance so there would be a police presence at the event.

As the boxing event continued, Sergeant Jarvis remained in his car, speaking with the event organizer, speaking with his lieutenant, and approving the written reports of other officers under his supervision.

At approximately 8:00 p.m., Sergeant Jarvis noticed people began to run, jog, and walk quickly out of the boxing event. He noticed several patrons jumping fences to get away.

Sergeant Jarvis turned on his emergency overhead lights and pulled forward towards the chain-link fence at the entrance to the warehouse. He repeatedly asked the fleeing patrons what was happening but could not get an answer. He then called dispatch and asked for additional units to respond Code 3.¹

Sergeant Jarvis exited his patrol vehicle and started walking towards the warehouse. At the chain-link fence entrance, a food truck to the left and a U-Haul truck to the right obscured his

¹ Code 3 indicates to consider the call an emergency and respond immediately, including utilizing emergency lights and siren as reasonably necessary.

view of what was happening beyond. He continued to ask questions of people leaving the event. However, the fleeing patrons largely ignored him and continued walking rapidly away from the event.

Suddenly, Sergeant Jarvis noticed about 50 people running towards his direction by the entrance gate. One passing individual told Sergeant Jarvis that a Hispanic male was “waving a gun around” inside the event. He urgently told the Sergeant that he needed to “go in there.”

Sergeant Jarvis continued towards the entrance gate. He wanted to prevent anyone inside from getting hurt. He also was concerned for his own safety as he did not yet know what the armed suspect looked like.

Sergeant Jarvis then heard multiple gunshots coming from the other side of the U-Haul truck just beyond the entrance gate. He could not see what was happening but had learned in his active shooter training that he needed to enter the scene, determine what was happening, locate and confront the shooter, and do whatever was necessary to prevent the shooter from harming anyone.

At approximately 8:04 p.m., Sergeant Jarvis broadcast, “Shots fired” over the radio and moved towards the sound of the gunfire. He heard the last gunshot just as he was rounding the front corner of the U-Haul truck. Sergeant Jarvis then saw multiple people, multiple cars, and the open entry doors to the warehouse that housed the boxing ring inside.

Sergeant Jarvis saw a subject between the two cars closest to the open warehouse doors. He could see that the subject, later identified as Augustine Morales, was facing the people still inside the warehouse. As Sergeant Jarvis moved towards him, he could see that Morales had a gun in his hand pointed towards the people inside the warehouse.

Sergeant Jarvis believed Morales was going to open fire on the remaining crowd inside the warehouse. He believed he needed to use lethal force to prevent that from happening.² Sergeant Jarvis fired multiple shots at Morales from behind. He began to command Morales to drop the gun, but believed he saw Morales turning towards him while still holding the gun. This caused Sergeant Jarvis to fear for his own safety. Therefore, he continued to fire at Morales until Morales fell to the ground between two cars. Sergeant Jarvis fired a total of 13 rounds at Morales.

Morales was on his hands and knees. Morales’ gun was by his right hand. Sgt. Jarvis visually scanned the area. He thought he might have momentarily seen an individual inside the warehouse holding a black object in his hands. However, after quickly looking back at Morales, Sergeant Jarvis was no longer able to locate the individual holding the black object.

Sergeant Jarvis announced over the radio that shots were fired, a subject was down, and that he needed additional units to respond. As he did so, the crowd continued to flee from the scene around him. He ordered Morales to crawl away from the gun. Instead, Morales put his hand on

² Although he was armed with a taser, Sergeant Jarvis did not believe the taser would be effective considering the immediacy and nature of the threat presented.

top of the gun and slid it across to Sergeant Jarvis. Sergeant Jarvis stood over the gun so no one would move it or accidentally kick it. Sergeant Jarvis remained with the gun until it was secured by another officer.

After Morales was struck, he told Sergeant Jarvis, "I didn't shoot anybody."

Additional officers arrived and quickly began to secure Morales in custody and administer medical care until Fire Department medics arrived. As Sergeant Jarvis was the senior officer on scene, he began to issue commands to preserve the crime scene and attempt to identify witnesses until Acting Lieutenant Douglas Morse arrived and assumed command.

Morales was transported by ambulance to the UC Davis Medical Center. He was pronounced deceased at approximately 8:39 p.m. by Dr. Scott Zakaluzny.

Officers located a victim of the shooting named Jermaine Dinkins. Mr. Dinkins was leaving the scene in a grey Altima when contacted by officers. Dinkins had received a through-and-through gunshot wound to his foot. Dinkins told officers at the scene he had been at the event for approximately 10 minutes and was standing near the food truck by the entrance. He stated he heard a commotion and saw people trying to leave, then heard the sound of gunshots.

Dinkins stated he realized he had been shot in the foot, with the bullet entering the top of the foot near his toes and exiting near his heel. He did not know who shot him and did not believe he was the intended target. He was then transported by ambulance to the hospital for medical treatment.

Dinkins was standing by the food truck when he was shot in the foot. When Sergeant Jarvis began firing at Morales, the food truck was directly behind Sergeant Jarvis, placing Mr. Dinkins behind Sergeant Jarvis' line of fire. It appears that Dinkins was struck by the unknown shooter firing at Morales, as noted further below, from inside the warehouse.

Civilian witnesses were identified and interviewed. Several described Morales as being extremely drunk.

One witness stated that Morales was drunk and nearly started a fight with one of the boxers approximately an hour before the shooting.

A second witness saw Morales outside the warehouse just prior to the shooting. He described Morales as drunk and having a gun in his hand. The witness stated Morales' friend was trying to get Morales to leave. The witness told detectives he heard Morales say, "Whoever wants it, can get it," and that he did not care if the police were present. The witness said he saw Morales pointing his gun at others present at the event.

A third witness was the referee for the boxing event. He stated that Morales had been asked to leave the event after having an argument inside the warehouse with the bartender. The witness stated that minutes later, he saw Morales holding a gun and pointing it at people. The witness

believed Morales was returning to shoot at the people he had argued with earlier. The witness stated he dove to the ground and did not see the shooting.

An additional witness was a friend who went to the event with Morales. He told detectives Morales had been drinking and they became separated during the event. He stated that at some point he noticed that Morales was being escorted out of the warehouse by event security. He also noticed that people appeared to be running towards the exit.

The witness stated he went over to Morales and told him they needed to leave. Morales tripped over some chairs, and the witness began to help Morales get up. As he did so, a gun dropped from Morales' pocket. The witness picked it up. Morales asked for it back, and the witness returned the gun to Morales.

The witness described to detectives that he yelled at Morales to get him to leave, but Morales would not listen. The witness noticed that the crowd seemed to be afraid of Morales. Since he could not get Morales to leave, the witness stated he headed alone towards the exit. He told detectives he heard the gunshots behind him as he did so and did not see what happened.

Crime scene investigators arrived and processed the scene. Eight .40 caliber casings were located on the ground near the roll-up door entrance to the warehouse.

A round count and examination of casings recovered at the scene showed that Sergeant Jarvis fired 13 9mm rounds during the incident.

Morales' gun was a 9mm Smith and Wesson. It contained one live round in the chamber. There was no magazine inserted inside the gun when it was recovered by Sergeant Jarvis.³ A magazine for the firearm was located at Morales' feet while medical care was being provided. The magazine was capable of holding 15 rounds. It was loaded with 11 9mm rounds. The gun was unregistered.⁴

Video posted to Facebook Live by an attendee of the event was reviewed. The video shows Morales being escorted out of the boxing area. Morales appears to be extremely intoxicated. Morales falls to the floor as he passes through the roll-up door at the entrance.

Surveillance video from the warehouse property was reviewed. At approximately 7:18 p.m.,⁵ the video shows Morales and two companions approaching the entrance gate. Morales is holding a bottle in one hand and a drink in the other.

³ The frame of the gun contains the following warning: "CAUTION – Capable of being fired with magazine removed." As the gun had one round in the chamber, it was capable of discharging a projectile.

⁴ Two 9mm spent casings were located inside the bathroom of the warehouse. These do not appear to be related to the incident addressed here.

⁵ The time stamp and date on the surveillance video do not match with the time stamp on Sergeant Jarvis' BWC or the times recorded by dispatch. The incident occurred on November 14th. The surveillance video time stamp appears to be off by 8:53:50. Accordingly, the actual correct time has been used rather than the time stamp shown on the surveillance video.

At approximately 7:20 p.m., Morales and his two companions pass through the entrance gate. They are not patted down or scanned with a metal detector as they pass the gate.

At approximately 8:01 p.m., the crowd begins fleeing from inside the event. Morales is seen standing up after having fallen by the roll-up door. Morales begins walking to the parking lot with a companion. Morales has an object in his hand that appears to be a gun and points it at several people.

At approximately 8:02 p.m., Morales and his companion re-enter the warehouse, and re-emerge approximately 45 seconds later. Morales' companion leaves the event and does not return. Morales points the gun at several people and also holds it by his side.

At approximately 8:03 p.m., Morales attempts to throw the gun through the window of a parked BMW. The window is closed, so the gun bounces off the window to the ground. Morales bends and picks it up.

At approximately 8:04 p.m., Morales walks towards two vehicles parked at the roll-up door entrance to the boxing ring. An unknown subject appears to begin shooting at Morales from just inside the roll-up door as Morales points the gun towards the inside of the warehouse. Multiple muzzle flashes are visible on the video just prior to Morales pointing the gun.



Figure 1 – Still shot from surveillance camera. Morales is the person in the larger red circle. He can be seen holding a handgun in his right hand. He is walking towards the entrance to the warehouse. The smaller red circle notes where muzzle flashes can be seen coming from the area of the entrance to the warehouse.

Immediately after the shots are fired, Sergeant Jarvis is seen coming around the corner of the U-Haul truck parked by the entrance. Sergeant Jarvis fires at Morales from behind as Morales's gun is pointed inside the warehouse.



Figure 2 – Still shot from surveillance camera. Morales has moved closer to the entrance to the warehouse and is pointing his gun inside the warehouse. Sergeant Jarvis has come around the corner of the U-Haul and has his gun pointed at Morales.

Sergeant Jarvis' body-worn camera video was reviewed. It depicts the events as described above. It also provides additional detail.

At approximately 8:03:41 p.m., a witness tells Sergeant Jarvis there is a subject inside the event with a gun.

At approximately 8:03:55 p.m., Sergeant Jarvis is approaching the rear of the U-Haul truck by the entrance gate. The sound of 10 gunshots fired over the span of approximately three seconds is heard. Sergeant Jarvis begins moving towards the sound of the gunfire as the first shots begin.

As the last shot of the 10 shots is heard, Sergeant Jarvis passes the front of the U-Haul truck. He announces "Shots fired" over the radio. Morales is directly in front of him, facing away towards the warehouse. Sergeant Jarvis fires 13 shots at Morales in rapid succession, approximately one second after the last of the ten gunshots fired by the unseen shooter. Morales drops to the ground. Sergeant Jarvis commands Morales to drop the gun. Morales tells Sergeant Jarvis, "I didn't shoot nobody," and slides his gun across towards Sergeant Jarvis. Additional responding officers then arrive and begin to provide medical care to Morales within approximately two minutes.

The Sacramento County Coroner determined that Morales' cause of death was "Multiple Gunshot Wounds." It was noted that Morales had been struck 11 times in the back, hip, buttock, front of the abdomen, and front of each thigh.

A sample of Morales' femoral blood was analyzed by the Sacramento County District Attorney Laboratory of Forensic Services. The sample showed a blood alcohol concentration of 0.24%. The testing also showed the presence of THC.

LEGAL ANALYSIS

An officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11; *Graham v. Connor* (1989) 490 U.S. 386, 396; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; California Penal Code section 835a(b); CALCRIM 2670.) The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; CALCRIM 2670, 2671, 2672.) Officers do not need to retreat or desist their efforts if the person they are arresting or detaining resists or threatens resistance; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (California Penal Code section 835a(d).)

Here, Sergeant Jarvis was present to provide a police presence at a community event meant to deter gun violence. As he sat in his patrol vehicle outside, he began to see large numbers of people fleeing the event. He got out of his car and moved towards the entrance to find out what was happening. As he did so, a witness told him a Hispanic male was waving a gun around inside the event and told Sergeant Jarvis he needed to get "in there." Sergeant Jarvis had a duty to respond. He also learned from his active shooter training he would need to enter the scene, determine what was happening, locate and confront the shooter, and do whatever was necessary to prevent the shooter from harming anyone.

As Sergeant Jarvis passed through the entrance gate, he heard the sound of 10 gunshots being fired in rapid succession just beyond the U-Haul truck by the entrance. He could not immediately see the shooter. However, he knew that many people were present in that area.

As he rounded the front of the U-Haul, Sergeant Jarvis saw multiple people, multiple cars, and the open entry doors to the event. He also saw Augustine Morales standing between two cars closest to the open warehouse door. He saw Morales facing the people inside the warehouse and he saw Morales pointing a gun in their direction. Sergeant Jarvis believed Morales was going to begin shooting at the people inside the warehouse.

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 505, 507, 3470; California Penal Code section 835a(c)(1)(A).) It is the reasonable appearance of danger to the officer, and his honest belief in that danger, which is controlling. If an officer actually believes that deadly force is necessary and that belief is reasonable under the circumstances, the officer's actions are lawful even if it is later determined that the danger did not actually exist. (*People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the officer may employ all force reasonably believed necessary.

(CALCRIM 3470.) In addition, the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 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. (California Penal Code section 835a(a)(4); *Graham v. Connor* (1989) 490 U.S. 386.)

In the present matter, nearly immediately after hearing the sound of 10 gunshots, Sergeant Jarvis rounded the U-Haul truck and saw Morales, in the area where the sounds of the gunfire was coming from, pointing his gun at a group of people inside the warehouse. Those in the group appeared to be defenseless. Sergeant Jarvis believed Morales intended to begin firing at that group of people. As a sworn peace officer, Sergeant Jarvis had a duty and an obligation to act. In accordance with his training, he believed he needed to take immediate action to prevent the imminent harm Morales presented.

Although in hindsight, after a careful consideration of the physical evidence at the scene, witness statements, and surveillance videos, it is now known that Morales did not fire the 10 gunshots that drew Sergeant Jarvis inside the event. However, Sergeant Jarvis did not have the opportunity to slowly and methodically study and analyze the evidence now available. Instead, he was forced to make a split-second decision based upon the tense, uncertain, and rapidly evolving circumstances with which he was faced. Sergeant Jarvis heard gunshots fired in a crowded area and saw Morales pointing his gun at a group of people. Morales' actions presented an immediate danger of death or serious bodily injury to all the people in that area. Therefore, they required an immediate response from Sergeant Jarvis to subdue the immediate threat presented by Morales.

It is noted that Sergeant Jarvis began shooting at Morales from behind, striking Morales several times in the back. Further, Sergeant Jarvis did not issue a warning to Morales or provide Morales an opportunity to drop the handgun before he started firing. However, we must review Sergeant Jarvis' actions based on the circumstances presented. Shots had already been fired, and when Sergeant Jarvis rounded the corner of the U-Haul, Morales was pointing his gun towards a group of people. It appeared that he intended to shoot them. Sergeant Jarvis needed to act immediately. It would be unreasonable under these circumstances to expect Sergeant Jarvis to delay firing until he ran to a position where he could face Morales from the front. Such a delay could conceivably result in the loss of the lives of those people inside the warehouse who were in Morales' line of fire. Furthermore, it cannot be said that Sergeant Jarvis acted unreasonably in thinking he needed to act without delay and not issue a warning or order for Morales to drop his firearm. Even a momentary pause while waiting to see if Morales would acquiesce could have provided further opportunity for him to immediately fire with his handgun, which was already pointed at individuals inside the warehouse.

It is also noted that Sergeant Jarvis fired 13 shots at Morales. When Sergeant Jarvis began firing, he was behind Morales. Morales was pointing his gun towards the people inside the warehouse. However, Morales did not instantly go to the ground and drop the gun. Rather, Sergeant Jarvis saw that Morales' body was beginning to spin in Sergeant Jarvis' direction, while Morales was still holding on to the gun. This caused Sergeant Jarvis to be in fear for his own safety.

Therefore, he continued to fire until Morales dropped to the ground and dropped the gun. The location of the entry wounds to Morales noted in the autopsy report is consistent with this fact, noting that Morales received entry wounds to the front of his abdomen and to the front of each thigh.

In this type of matter, the officer need not prove that he had the right to use deadly force. Rather, it is the prosecution which must prove that the officer did not have that right. The question therefore becomes whether the evidence proves, beyond a reasonable doubt, that Sergeant Jarvis did not have an honest, reasonable belief that deadly force was necessary to defend others, and himself, against an imminent danger of death or great bodily injury. Under these facts, it cannot be said that Sergeant Jarvis was unreasonable in his belief that Morales posed an imminent threat of death or serious bodily injury to himself and others. While it is tragic that it now appears, after hindsight has provided additional information, that Morales had not fired his weapon, the law judges the officer's actions based upon the reasonable perception of the threat. Sergeant Jarvis acted lawfully under the circumstances.

CONCLUSION

Based on the circumstances of this incident, Sergeant Jarvis had an honest and reasonable belief that Augustine Morales presented an immediate danger of death or serious bodily injury to the crowd of people present that Morales was threatening with a gun. Further, Sergeant Jarvis had an honest and reasonable belief that Morales presented an immediate danger of death or serious bodily injury to Sergeant Jarvis, as well. Thus, Sergeant Jarvis acted lawfully in shooting Morales to protect himself and others. Accordingly, we will take no further action in this matter.

Cc: Sergeant Jeremiah Jarvis, Sacramento Police Department
Detective Micaela Cruz, Sacramento Police Department
Kimberly Gin, Sacramento County Coroner's Office
Office of Public Safety Accountability