



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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April 11, 2014

Commander Robert A. Lopez
Force Investigation Division
Los Angeles Police Department
100 West First Street, Suite 431
Los Angeles, California 90012

Re: J.S.I.D. File # 12-0684
F.I.D. File # 069-12
D.R. File # 12-1320838

Dear Commander Lopez:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 12, 2012, non-fatal shooting of Rodolfo Alarcon by Los Angeles Police Department Officers Jonathan Rocha and Louis Garcia. It is our conclusion that Officers Rocha and Garcia acted in lawful self-defense.

The District Attorney's Command Center was notified of this shooting October 12, 2012, at approximately 9:15 p.m. The District Attorney Response Team, comprised of Deputy District Attorney Amy Pellman Pentz and District Attorney Senior Investigator Tanya Newton, responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by the Los Angeles Police Department (LAPD), Force Investigation Division (FID). The officers' departmentally compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On October 12, 2012, at approximately 8:30 p.m., LAPD uniformed Gang Enforcement Detail (GED) Officers Isaias Medrano and Jaime Morales were patrolling for gang activity in the area of 41st Place and Woodlawn Avenue in the City of Los Angeles. As they drove their marked black and white vehicle eastbound on 41st Place, the officers observed a man, later identified as Kennedy Garcia, spray painting the wall of an apartment complex located at 4146 Woodlawn Avenue. Using blue spray paint, Kennedy Garcia wrote and crossed out "41st Street" gang

related graffiti.¹ Once done, Kennedy Garcia walked towards a black Ford Explorer SUV located fewer than ten feet away.

As Kennedy Garcia was about to enter the Explorer, Officer Morales stopped the police vehicle, ordered Kennedy Garcia to stand facing the vandalized wall, and ordered the occupants of the Explorer to exit the vehicle. Rodolfo Alarcon, Anthony R., Leticia S., and Genesis V. exited the Explorer and also stood facing the vandalized wall, east of Kennedy Garcia. Officer Medrano handcuffed Alarcon and Anthony R., and conducted a pat down search of each. As Medrano approached Kennedy Garcia, Garcia ran eastbound, grabbing his right front trouser waistband with one hand, as if he were reaching for a gun. Officer Morales chased Kennedy Garcia on foot and broadcast "(inaudible) need back up on San Pedro and 41st Place, 415 man with a gun."²

Officer Medrano entered the patrol vehicle and followed Morales and Kennedy Garcia. As he did so, Medrano observed all four remaining detainees flee the area. Anthony R. fled east on 41st Place and then north on Wall Street. Alarcon, Leticia S., and Genesis V. ran westbound on 41st Place and then northbound on Woodlawn Avenue.

Kennedy Garcia continued running eastbound on 41st Street and then turned north onto Trinity Street. As he ran north, Morales saw Kennedy Garcia toss a black metal object to his left using his right hand. Kennedy Garcia stopped running, and Officers Morales and Medrano took him into custody without further incident. The object tossed by Kennedy Garcia was not recovered.³

Immediately after Kennedy Garcia was taken into custody, Medrano broadcast "There's going to be a Code 4. Suspect in custody." Twenty seconds later, Medrano then broadcast information regarding the other suspects who ran, broadcasting "I got two suspects running northbound on Woodlawn, another suspect eastbound on 41st. Suspect number one, east 41st, is a male Hispanic with a white Dodger jersey. Now he's going southbound, northbound on Wall Street."

Uniformed GED Officers Kenneth Ahn and Chase Lambert, as well as uniformed GED Officers Brandi Pearson and Guillermo Garcia, heard Medrano's broadcast regarding the outstanding suspects. Officers Ahn and Lambert drove their police vehicle on Wall Street north of 41st place followed by Pearson and Guillermo Garcia's police vehicle. Ahn saw a man wearing a Dodger's jersey, later identified as Anthony R., standing behind a tree on the east side of Wall Street. All officers exited their respective vehicles and Officer Ahn ordered Anthony R. to get down on his knees. Anthony R. complied, and Officer Guillermo Garcia approached Anthony R. and saw

¹ The area in question is claimed by the 41st Street criminal street gang. Kennedy Garcia is a member of the Playboys criminal street gang, a rival gang. Also sprayed in fresh blue paint was "ESPBS," an abbreviation for "East Side Playboys."

² In addition to grabbing his waistband, Morales believed that Kennedy Garcia was reaching for a gun because he had been crossing out graffiti in a rival gang's territory and, in his experience, gang members entering a rival gang's territory are often armed.

³ A thorough search for the discarded item was not conducted immediately. At 10:14 p.m., K-9 Officer Alan Ramirez responded to 41st and Trinity and unsuccessfully attempted to locate the object discarded by Kennedy Garcia.

that he was already handcuffed. The officers did not broadcast a "code-four" or advise communications that Anthony R. was in custody.

Uniformed GED Officers Brandon Barron and Jonathan Rocha were responding to the backup call when they heard the additional broadcast regarding the fleeing suspects. They drove their marked police vehicle westbound on Martin Luther King Boulevard and turned south on Woodlawn Avenue. They were followed by uniformed patrol Officers John Boverie and Louis Garcia, who were also responding to the call. [REDACTED]

The officers continued to travel southbound past a Cadillac Escalade SUV and a Nissan Quest minivan that were parked facing south on the west side of Woodlawn. The cars were positioned adjacent to each other, with the SUV parked just north of the minivan. As the officers drove past both cars, [REDACTED]

[REDACTED] Rocha told Barron to stop and reverse their car [REDACTED]

[REDACTED] Officer Barron stopped their car just south of the van, and Officers Louis Garcia and Boverie stopped their car behind the other officers' car, approximately adjacent to the minivan.

All officers exited their respective patrol vehicles and approached the area between the SUV and the minivan. Rocha alerted Louis Garcia and Boverie to Alarcon's position and ordered Alarcon, who was [REDACTED] under the SUV, to show his hands. Alarcon did not respond verbally and did not show his hands.⁴ Believing that he was the suspect armed with a gun, [REDACTED]

[REDACTED] Alarcon again did not respond and continued crawling underneath the SUV.⁵

⁴ The officers were unaware that Alarcon was handcuffed.

⁵ [REDACTED]

⁶ The officers believed that Alarcon was the subject of the "415 man with a gun" call. [REDACTED]

[REDACTED]

[REDACTED]

Just prior to the shooting, Sergeant Robert Calderon and Deputy Probation Officer (DPO) Salvador Nunez arrived. Calderon observed Rocha and Louis Garcia positioned near the van and, believing that they were confronting a man with a gun related to the pursuit, attempted to seek cover. As he walked around the front of his car, Calderon heard shots fired. He was not looking in the direction of the officers at the time they discharged their weapons. When Sergeant Calderon approached Officer Rocha, Rocha said "Damn...I thought he had a gun...But it was the cuffs."⁹

Calderon immediately broadcast that shots had been fired and requested all units respond to their location. He then requested that an ambulance respond as well. Paramedics arrived on scene, treated Alarcon, and transported him to California Hospital Medical Center. Alarcon was treated for a single gunshot wound to his lower back. During surgery, one fired bullet was removed from Alarcon's abdomen. Alarcon survived his injuries.¹⁰

No other officer witnessed the shooting. Officer Barron's attention was drawn to a female situated near the wheel well of the SUV, later identified as Genesis V. As Barron ordered Genesis V. to put her hands up, he heard two gunshots. Officer Boverie was in the street near the minivan and saw Alarcon's feet protruding from under the SUV. He heard the officers order Alarcon to come out from under the SUV, heard the first shot, and retreated south. Boverie did not know who fired that shot. He then heard a second shot. DPO Nunez saw the officers focused on "some sort of movement underneath the vehicle." Nunez fixed his attention there and

[REDACTED]

The nearest street light was on the east side of Woodlawn approximately 48 feet north of the incident.
¹⁰ Alarcon would not sign an authorization to release medical information. As such, limited information is available regarding his injuries. He was released from the hospital on October 19, 2012.

heard a round fired. Believing that he was potentially in the line of fire, he repositioned himself. As he was doing so, he heard two additional rounds being fired. Nunez did not know who fired.

Several witnesses in the area provided statements. Humberto Cortez was asleep in the Nissan Quest minivan when he awoke to gunshots. He heard two or three gunshots and did not see the incident. Ana Vaquero looked outside of her window and saw two police vehicles in the roadway and officers nearby. She saw one officer standing with his hand extended in front of his body holding a gun, but did not see a suspect. She heard gunshots and immediately ran to get her four week old baby. Genesis V. told detectives that she was being taken into custody and had her face to the ground. She heard three gunshots. Leticia S. told investigators that she did not see the officers discharge their weapons, but heard one gunshot.¹¹

Officer Rocha was armed with a .40 caliber Glock Model 22 semiautomatic pistol. The maximum capacity of this firearm is sixteen rounds. When inspected after the incident, Officer Rocha's pistol contained fifteen rounds. Officer Louis Garcia was armed with a .45 caliber Glock Model 21 semiautomatic pistol. The maximum capacity of this firearm is fourteen total rounds. When inspected after the incident, Officer Garcia's pistol contained thirteen rounds. One .40 caliber cartridge casing and one .45 caliber cartridge casing were found at the scene. The fired bullet removed from Alarcon during surgery was consistent with a .45 caliber fired bullet. Officer Rocha and Officer Louis Garcia each fired one round.

At the time of the incident, Alarcon was 19 years old, stood 5'4", and weighed 135 pounds. LAPD department sources identified Alarcon as a "Playboys" criminal street gang member with monikers of "Rival," "Little Toker," "Toker," "Lil G," and "Bago." Investigators made several attempts to interview Alarcon. Alarcon refused to make a statement regarding this incident.¹² On July 7, 2013, Alarcon was shot and killed in a gang-related incident.

CONCLUSION

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury, (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger, and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM 505.

"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

¹¹ After the incident, Boverie observed Leticia S. lying down on the ground near the right rear wheel well of the minivan and detained Leticia S. without further incident.

¹² On October 14, 2012, detectives attempted to interview Alarcon at California Hospital Medical Center. Alarcon refused to provide a statement at that time. Detectives later went to Alarcon's home to attempt to speak with him and were told that Alarcon was not home. Detectives left a business card with a family member. Later, an investigative contact card was sent to Alarcon's residence and a letter requesting an interview with Alarcon was mailed to his attorney. Neither Alarcon nor his attorney contacted LAPD regarding this matter.

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. Conner (1989) 490 U.S. 386, 396-397.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

The evidence examined in this investigation shows that Officers Rocha, Barron, Boverie and Garcia responded to a call to locate additional suspects from a “415, man with a gun” call. As all officers proceeded southbound on Woodlawn

[REDACTED]
All four officers approached. [REDACTED]

[REDACTED]. Rocha ordered Alarcon to show his hands. Alarcon did not respond verbally and continued to crawl under the SUV. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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We conclude that Officers Jonathan Rocha and Louis Garcia were placed in reasonable fear of imminent danger of death or great bodily injury and acted lawfully in self-defense when they used deadly force against Rodolfo Alarcon. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

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c: Officer Jonathan Rocha, #38919
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