

Fatal Officer Involved Shooting of Fred Barragan
Los Angeles Police Department

Officer Hector Almeda, #39529

J.S.I.D. File #17-0160



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 18, 2023

MEMORANDUM

TO: CAPTAIN OMAR BAZULTO
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: Fatal Officer Involved Shooting of Fred Barragan
J.S.I.D. File #17-0160
F.I.D. File #F021-17

DATE: August 18, 2023

The Los Angeles County District Attorney's Office Justice System Integrity Division has completed its review of the March 25, 2017, fatal shooting of Fred Barragan by Los Angeles Police Department (LAPD) Officer Hector Almeda. We have concluded that the shooting was not unlawful.

The District Attorney's Command Center was notified at 1:15 a.m. on March 25, 2017, of the shooting. The District Attorney's Response Team responded and was briefed at the scene by LAPD Lieutenant Steve Lurie.

The following factual analysis is based on body worn camera videos (3), dash camera videos (2), surveillance videos (6), LAPD communications recordings (5), recorded witness interviews (11), evidence collected and reports submitted by the LAPD Force Investigation Division (FID). None of the officers, including Officer Almeda, provided voluntary statements. No compelled statements were considered.

SUMMARY

Seconds before midnight on Friday, March 24, 2017, gunfire erupted on Breed Street south of East First Street in the city of Los Angeles. Callers to 9-1-1 reported as many as 20 gunshots. A police unit one block east on Soto Street responded immediately. When the unit turned west onto First Street, an unidentified male and a female later identified as [REDACTED] were on the north sidewalk. Two males, later identified as [REDACTED] and Fred Barragan, were standing on the south sidewalk.

As the unit traveled west [REDACTED] began to flee east, pursued by Mr. Barragan. Officer Almeda jumped from the car and followed them, commanding that they stop. [REDACTED] continued to run east onto the MTA station grounds while Mr. Barragan ran south in an adjacent alley. As

Mr. Barragan ran he raised a pistol in the direction of Officer Almeda, [REDACTED], and the MTA station. Officer Almeda shot once. Mr. Barragan threw his pistol over a wall as he fell to the ground, mortally wounded.

Six security cameras captured the incident, each from a different perspective (Figure 1). Cameras 1, 2 and 3 were located at the Chase Bank on the northeast corner of First and Breed Streets. Camera 4 was located across First Street from the alley, in the driveway of PBW's bar. Cameras 5 and 6 were located on the Western Union office building at the northeast corner of First and Soto Streets. The District Attorney's Office also reviewed audio recordings of the radio transmissions over the LAPD Hollenbeck Division and LAPD CTAC2 Channel 36 frequencies. All times of day referenced in this memorandum were synchronized with the time announcements on the Hollenbeck Division radio frequency.

FACTUAL ANALYSIS

Foot Pursuit and Shooting

Only those events visible or audible to LAPD officers Hector Almeda, the shooter, and his partner David Manriquez, are described, sequentially, in this section. The entire incident from the first radio call to the shooting took 34 seconds.

At 11:59:50 p.m. on Friday, March 24, 2017, Hollenbeck radio traffic from an unidentified officer reported hearing shots being fired from the direction of Breed and East Michigan Street. At 11:59:56 p.m. more Hollenbeck radio traffic from an unidentified officer reported, "show us en-route."

At 12:00:03 a.m. (now Saturday, March 25), the marked Los Angeles Police Department patrol car occupied by officers Almeda and Manriquez turned left (west) onto First Street off of Soto Street. As the patrol unit traveled west, [REDACTED] and Mr. Barragan walked east from Breed into the shadows on the south sidewalk of First Street.

Within seconds Hollenbeck radio broadcast announced, "I've got a suspect code 6" and in the background could be heard shouting, "Get down . . ." followed by "Heads up, he's got a [unintelligible]." The patrol car occupied by officers Almeda and Manriquez braked and [REDACTED] reappeared walking east along the south side of First Street looking behind him as he walked. The patrol car stopped in front of the Chase ATMs at the northeast corner of First and Breed Streets, with the passenger door already open. Officer Almeda jumped out and ran east on First Street.

[REDACTED] picked up his pace and started to run east-southeast across the alley onto the MTA station property. Mr. Barragan followed after him on the south sidewalk of First Street, west of the alley. When Mr. Barragan reached the mouth of the alley, he turned sharply south.

The following series of images captured by the PBW video camera depict Mr. Barragan's flight.



Image Capture # 1 - Mr. Barragan at mouth of alley (12:00:21.00 a.m.).



Image Capture # 2 - Mr. Barragan running south in alley (12:00:21.73 a.m.).



Image Capture # 3 - Mr. Barragan with arms and hands no longer visible (12:00:22.43 a.m.).



Image Capture # 4 - Mr. Barragan's arm being raised in direction of Officer Almeda, [REDACTED], and MTA station (12:00:23.50 a.m.).



Image Capture # 5 - Mr. Barragan no longer discernibly visible (12:00:24.53 a.m.).

After running a short distance, Mr. Barragan raised his arm and pointed it in the direction of the MTA station and Officer Almeda (Image Capture 4). The quality of video is such that it cannot be determined from the video whether either Officer Almeda or Mr. Barragan was holding a gun. However, almost immediately after Mr. Barragan raised his arm to a full upright position, neither his figure nor shadow could be seen against the cinder-block wall.

Immediately thereafter, Officer Almeda broadcast “Shots fired, First and Soto, we’ve got a suspect down.” He was joined by Officer Manriquez. With pistols drawn, they positioned themselves on the MTA station grounds between Mr. Barragan and the civilians in the background. They remained in that position until a second patrol unit arrived 18 seconds later.

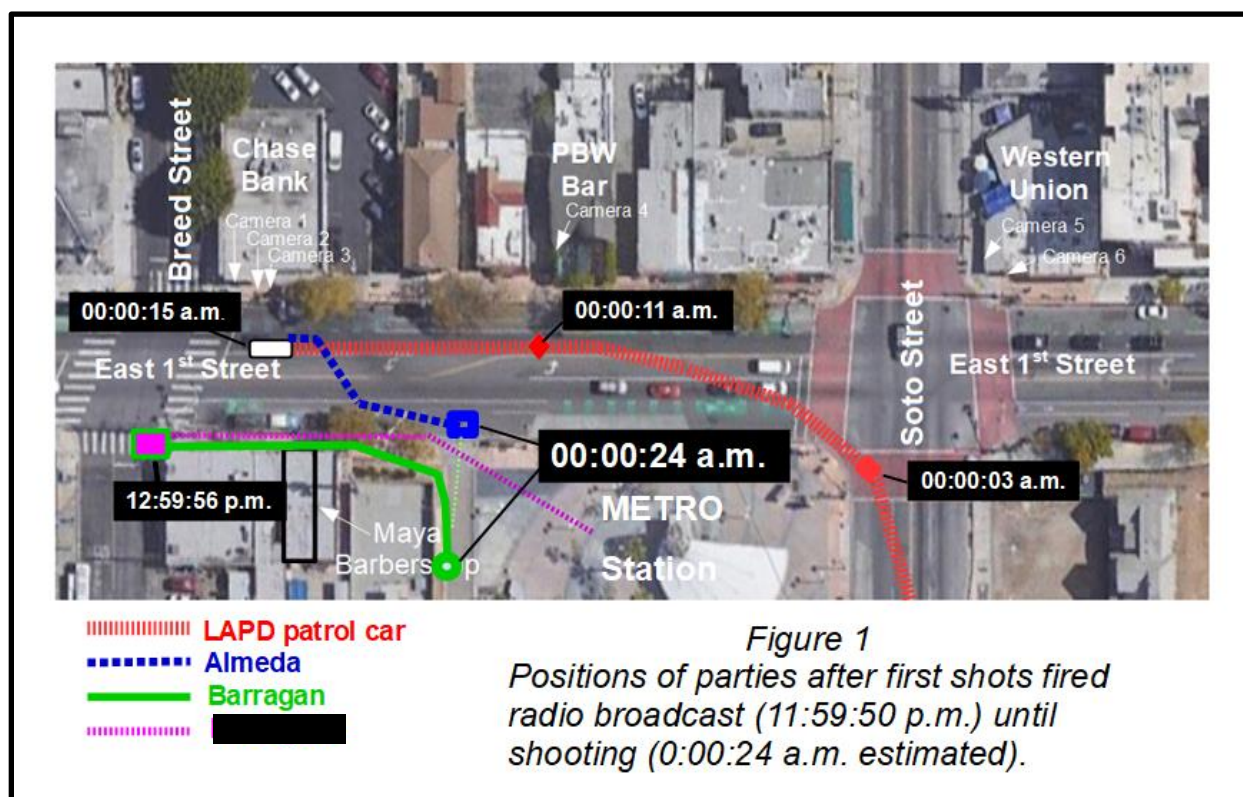


Figure 1 - Diagram of involved parties' movements.

Arrival of Additional Police Officers

The following description is based, in addition to the above-described audio and video recordings, on recordings captured by the dash cameras of two units and the body worn video cameras of three officers and one sergeant.¹

The first assisting police unit arrived within 18 seconds of the suspect down broadcast and turned right (south) into the alley. The unit's dash camera showed officers Almeda and Manriquez standing approximately 20 feet east of the east curb line of the alley, weapons drawn, facing Mr. Barragan. Mr. Barragan was lying on his back on the west side of the alley, his feet toward First Street, still moving. Two officers from the second patrol unit approached Mr. Barragan, as did Officer Almeda and Officer Manriquez, and handcuffed him.

As an unidentified officer waited with Mr. Barragan for the LAFD paramedics to arrive, the officer asked an off-screen person if there was a weapon. An unseen person answered that it was "tossed" but the remainder of the statement was unintelligible over the noise of radio traffic and helicopter. The asking officer pointed west toward the wall of the MTA power substation and said "He tossed the gun." Later a second officer pointed west in the direction of the wall and said he thought there was an "article" over there.

¹ There was a -0:00:02 offset in time between the time of day displayed on the body worn camera videos and the Hollenbeck radio frequency times. All times are expressed as the Hollenbeck radio frequency time.

LAPD Officer Ethan Sillers climbed to the top of the east wall of the MTA power substation yard. From there he searched the interior of the yard with his flashlight and located inside of the yard a pistol, which he described as an “article.”

Physical Evidence from Shooting Scene

Investigators recovered a single spent shell casing from First Street just east of the east curb line of the alley. Officer Almeda’s duty pistol was test fired by firearms analysts in the LAPD’s Forensic Science Division (FSD). The test fired bullets and cartridge casings were booked into evidence as exemplars. Analysts determined that the cartridge casing recovered on First Street north of the mouth of the alley had been expended from Officer Almeda’s pistol.



Photo # 1 - Shell casing from Officer Almeda's pistol.

Investigators recovered the “article” located by Officer Sillers within the MTA power substation yard. It was a 9 mm Beretta model 92FS pistol, serial number BER35063Z. When found this pistol contained one live cartridge in the chamber and seven live cartridges in the magazine (the standard magazine capacity for this model is 15 cartridges). The pistol was cocked with its safety off. This pistol had been reported stolen in a residential burglary that occurred between August 20 and September 7, 2005.



Photo # 2 - "Article" located by Officer Sillers.

This recovered Beretta pistol was test fired by FSD firearms analysts and the test fired bullets and cartridge casings booked into evidence as exemplars. No DNA or fingerprints were recovered from this pistol.

Breed Street Shooting: Source of Reported Gun Shots

The genesis of the encounter between Officer Almeda and Mr. Barragan was the gun shots coming from the vicinity of Breed Street west of First Street ten seconds before midnight. Investigators identified a second shooting scene on Breed Street south of First Street. The following information is based upon the investigation of that shooting. (Note: The LAPD erroneously reported that the evidence from this scene was collected on the 100 block of North Breed Street. The District Attorney's Office verified by site visit that the photos taken by the LAPD of the evidence were taken on *South* Breed Street).

Two residents called 9-1-1 reporting gun shots on Breed Street. One caller from a residence mid-block on Breed Street south of First Street reported there were 20 gunshots coming from right outside their door. Another caller from a residence on Breed Street just north of First Street reported there had been at least 20 gunshots fired real close to their house on Breed Street.

Approximately one minute before the radio broadcast that shots were being fired from the direction of Breed Street, video recordings captured [REDACTED] and Mr. Barragan crossing First Street. At the southeast corner of Breed and First streets they met a third person at the southeast corner and walked south out of view on the east sidewalk of Breed Street.

From their location on the east sidewalk of Breed Street just out of view of the video cameras at the Chase Bank, Mr. Barragan, [REDACTED], and the third person exchanged gunfire with two gunmen located in the street in front of 110 South Breed Street. Seconds after the gunfire, video from the Chase Bank cameras captured [REDACTED] and Mr. Barragan walking from northbound on Breed Street. They then walk east on the south sidewalk of First Street. Within seconds later there was the radio broadcast “I’ve got a suspect code 6 . . .” as described above.

LAPD investigators responded to Breed Street between East Michigan Street on the north and East Second Street on the south. In the 100 block of South Breed Street investigators recovered sixteen shell casings from three different firearms, four live cartridges and one cell phone. They also located three bullet impacts and found one spent bullet in front of a residence on South Breed Street. (Figure 2).

The shell casings and the recovered bullet were compared by FSD to the exemplars fired from the Beretta recovered from the substation yard. Analysts determined that the spent bullet had been fired from the recovered Beretta and that three spent shell casings recovered on the east sidewalk of Breed Street just south of First Street had been ejected from that Beretta. The recovered cell phone belonged to Mr. Barragan and was found near those three shell casings.



Photo #3 – Shell casings ejected from recovered Baretta and Mr. Barragan’s cellphone.

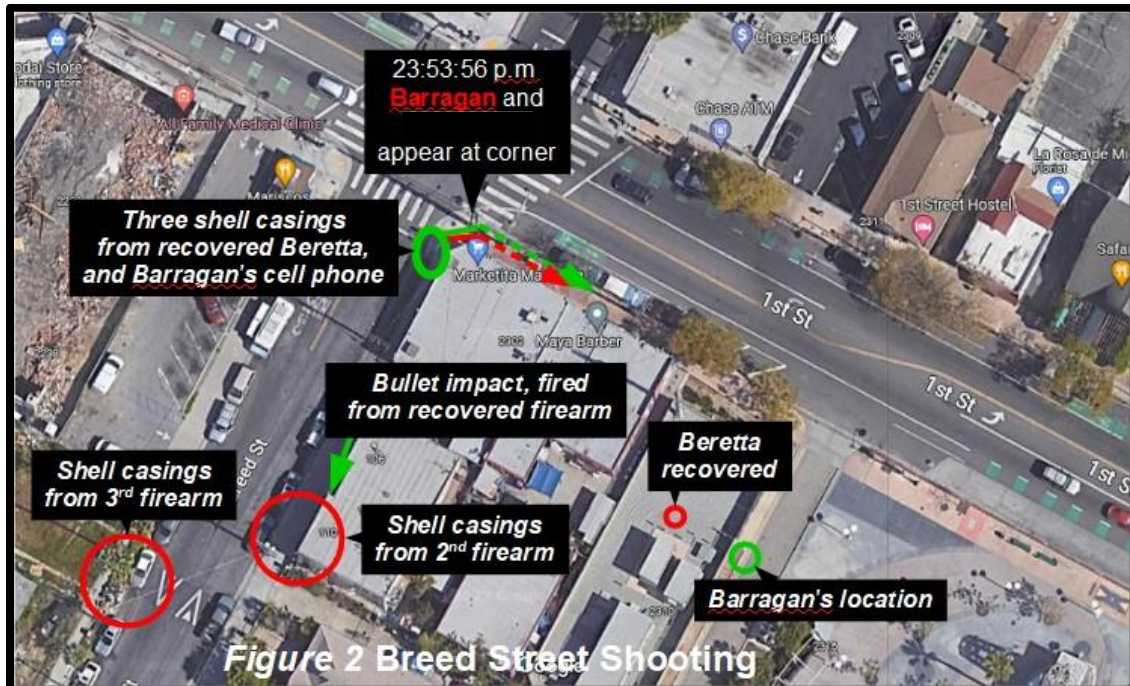


Figure #2 – Map of recovered evidence from South Breed Street shooting.

Eye-Witness Statements

LAPD Force Investigation Division investigators canvassed the area for witnesses. Ten civilian witnesses and [REDACTED], provided voluntary statements to investigators. Four of them and [REDACTED], reported to have witnessed the shooting of Mr. Barragan.

[REDACTED], was stopped in front of Karla's bar on the north side of First Street east of the alley. As he prepared to exit his car, he heard multiple shots coming from the vicinity of First and Breed Streets. An LAPD patrol car passed him by traveling west on First Street. At the same time two men ran east on First Street towards the alley. An officer got out of the patrol car and shouted "Stop, police." The two men did not comply and continued to run. [REDACTED], reclined his seat fully and heard a single gunshot.

[REDACTED], was seated in the passenger seat of a vehicle parked against the north curb of First Street in front of PBW's Bar. She heard approximately 16 gunshots from the direction of Breed. She then saw three men running east on First Street as a patrol car traveled west. The patrol car stopped, and the passenger jumped out and shouted "stop." She jumped out of the truck and ran to PBW's patio, where she was when she heard a single gunshot.

[REDACTED], was seated in the driver's seat of the vehicle with [REDACTED]. He heard 20 to 25 gunshots from the vicinity of Breed Street. A patrol car came traveling west on First Street, and two men were running east on First Street. The officers got out of the car and chased the two men. The officers shouted stop about four times. One of the men ran south in the alley and when the man was by the gate one of the officers fired one shot.

██████. was walking west on the north side of First Street crossing Breed Street when she saw ██████. and Mr. Barragan standing south of the intersection, involved in an argument with some men on Breed Street. As she crossed Breed Street, gunfire erupted among them and she ran to the northeast corner of First Street. As she continued east she saw ██████. and Mr. Barragan stop on the south side of First Street in front of the barber shop. They had nothing in their hands. A patrol car came traveling west and ██████. began to run east on the south sidewalk of First Street. Mr. Barragan paused and then followed ██████. with his hands in the pockets of his hoodie. The police told him to stop, but he did not. The police then shot Mr. Barragan. (Note: ██████. also said Officer Almeda and Officer Manriquez handcuffed then kicked Mr. Barragan. The video recordings of the scene show this did not happen.)

Evidence from Los Angeles County Medical Examiner-Coroner

An autopsy on Mr. Barragan was performed by the Los Angeles County Medical Examiner-Coroner. The conducting Deputy Medical Examiner reported that the cause of Mr. Barragan's death was a single bullet wound to Mr. Barragan's chest. The bullet had entered the left side of Mr. Barragan's back, traveled left to right and upward and came to rest immediately beneath the partial exit wound in Mr. Barragan's upper-right chest. The bullet was recovered and provided to FSD. Analysts compared the bullet to the exemplar from the test firing of Officer Almeda's pistol and determined both had been fired from the same firearm. The manner of death was determined by the Deputy Medical Examiner to be homicide.

The Medical Examiner-Coroner conducted tests on samples taken on March 17, 2017, from Mr. Barragan's hands to determine whether gunshot residue particles were present. On April 14, 2017, the Medical Examiner-Coroner reported that gunshot residue particles were present on Mr. Barragan's hands and that therefor Mr. Barragan may have “. . . discharged a firearm, been in the vicinity of the discharge of a firearm, or touched a surface with gunshot residue on it.”

LEGAL ANALYSIS

The Law

Homicide is the killing of one human by another.² Pursuant to California statute, homicide is not unlawful if the homicide is justifiable.³ California law provides that homicide is justifiable when committed by a person in the reasonable defense of self or the defense of another.⁴

California law provides, and at a jury trial in this case the jury would be instructed by the court, as follows:

The defendant is not guilty of murder or manslaughter if he was justified in killing someone in self-defense or defense of another. The defendant acted in lawful self-defense or defense of another if:

² *People v. Antick* (1975) 15 Cal. 3d 79, 87 (reversed on other grounds); 1 *CalCrim* 500 (2023)

³ California Penal Code section 197; 1 *CalCrim* 500 (2023)

⁴ Penal Code section 197; *People v. Humphrey* (1996) 13 Cal. 4th 1073

1. *The defendant reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury;*
2. *The defendant reasonably believed that the immediate use of deadly force was necessary to defend against that danger;*

AND

3. *The defendant used no more force than was reasonably necessary to defend against that danger.*

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.⁵

The People have the burden of proving beyond a reasonable doubt that the killing was not justified. If the People have not met this burden, you must find the defendant not guilty of murder or manslaughter.

Analysis

1. *Did Officer Almeda reasonably believe that he or someone else was in imminent danger of being killed or suffering great bodily injury?*

The evidence here and the inferences which can be drawn from it are such that a person could reasonably believe that Mr. Barragan posed an immediate threat to the lives of Officer Almeda and others who were in the vicinity. Mr. Barragan was fleeing from a shooting scene with a firearm which he withdrew from his waist area and raised it pointing in the general direction of the MTA station (see *Image Capture 4*).

Based upon the location at which Mr. Barragan fell to the ground and the location at which the shell casing from Officer Almeda's gun was recovered, the evidence suggests that it was at this point Officer Almeda decided to fire the shot which felled Mr. Barragan.

The quality of the video precludes seeing a firearm in either Mr. Barragan's hand or in Officer Almeda's hand. However, the evidence is consistent with Mr. Barragan being in possession of and having withdrawn a firearm at the time of his shooting.

The recovered Beretta 9mm pistol was fired on Breed Street approximately 34 seconds before Mr. Barragan was shot. Mr. Barragan's cellular phone was located in the same place where the pistol had been fired. Mr. Barragan had gunshot residue on his hand. Video recordings of the south sidewalk of East First Street show that only [REDACTED] and Mr. Barragan traveled from the scene of the shooting on Breed Street to the MTA power substation yard. There is no alternative reasonable

⁵ Penal Code section 198.

explanation as to how the firearm could have been transported from where it had been fired on Breed Street to the MTA power substation yard.

The video recordings show that at the time of Mr. Barragan's shooting there were nine pedestrians, four bicyclists and nine occupied motor vehicles behind Officer Almeda within range of Mr. Barragan's pistol. All of these people had been within Officer Almeda's field of vision as he approached Breed Street and pursued Mr. Barragan.

As Mr. Barragan appeared to be raising his pistol, Officer Almeda could not have known what Mr. Barragan's intentions were, either toward him or toward [REDACTED], who he appeared to have been pursuing. The risk of guessing incorrectly could be death or serious bodily injury to [REDACTED], Officer Almeda or the civilian bystanders in the background.

2. *Did Officer Almeda reasonably believe that the immediate use of deadly force was necessary to defend against that danger?*

The direct and the circumstantial evidence here and the inferences which can be drawn from it are consistent with Officer Almeda acting under the reasonable belief that the use of deadly force was necessary to prevent Mr. Barragan from firing a shot which could have hit [REDACTED], Officer Almeda or any of the civilians which were at Officer Almeda's back.

Under these circumstances it is reasonable that Officer Almeda believed that he must shoot Mr. Barragan before Mr. Barragan had an opportunity to fire at [REDACTED], Officer Almeda or the surrounding civilians. Officer Almeda had approximately one second to make that decision.

3. *Did Officer Almeda use no more force than was reasonably necessary to defend against that danger?*

There were no other force options available to Officer Almeda to prevent Mr. Barragan from firing his pistol. Officer Almeda was approximately 50 or more feet from Mr. Barragan when Mr. Barragan raised his arm.

CONCLUSION

The direct and the circumstantial evidence here and the inferences which can be drawn from that evidence support a finding that the use of deadly force by Officer Almeda was not unlawful.