

Non-Fatal Officer Involved Shooting of Nakiea Brown
Los Angeles Police Department

Officer Andres Lopez, #43137

J.S.I.D. File #21-0119



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 3, 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: Non-fatal Officer Involved Shooting of Nakiea Brown
J.S.I.D. File #21-0119
L.A.P.D. File #F018-21

DATE: October 3, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 23, 2021, non-fatal shooting of Nakiea Brown by Los Angeles Police Department (LAPD) Officer Andres Lopez. We have concluded that the officer acted lawfully in self-defense or in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 3:09 p.m. on March 23, 2021. The District Attorney Response Team (DART) responded to the location and was given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings, crime scene diagrams, photographic and video evidence, including body worn camera video (BWV), and witness statements submitted to this office by LAPD Force Investigation Division Detectives Dante Palacio and John Macchiarella on September 28, 2022. Additional BWV, audio recordings, and photographs were received September 15, 2023. Compelled statements by Lopez were not considered in this review, but those of other percipient witness officers were considered.

FACTUAL ANALYSIS

On March 23, 2021, at about 2:15 p.m., Nakiea Brown was standing outside LAPD's Olympic Community Police Station. On that date, members of the public were not able to enter the Olympic station lobby due to COVID-19 health orders. Police officers were assisting members of the public in the outdoor area just beyond the station doors. Officers Denward Chin, Christopher Duong, and Senndy Baide staffed the front desk at the time of this incident.

At 2:15 p.m., Chin ran from the lobby to the station's public parking lot to clarify information he had provided to a member of the public. As he left the lobby to do so, Brown is visible standing

outside the lobby on Chin's BWV at 2:15:29, and again at 2:16:00 when Chin returned toward the station lobby.¹ After speaking with another member of the public, Chin turned to go back inside the lobby. Duong held the door open for Chin. Before he entered the station, at 2:17:11, Chin turned to ask Brown, who was still waiting outside the lobby with his arms folded, if he needed assistance. Brown appeared to shrug his shoulders but said nothing. Chin continued to observe Brown for ten seconds. Chin indicated in a compelled interview that he did so because Brown appeared distressed and Chin could tell "something [was] about to be up."

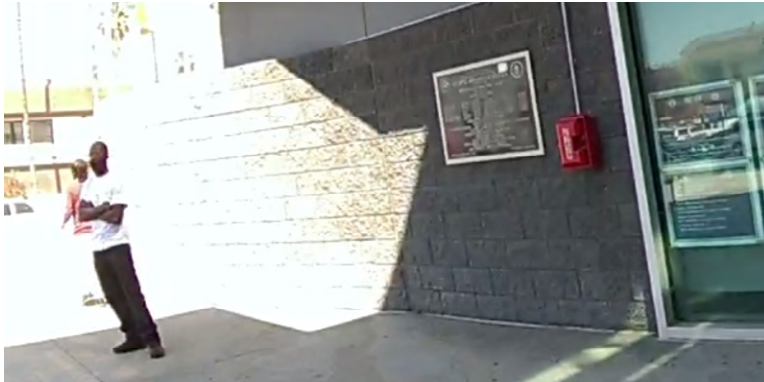


Figure 1: Still frame from Chin's BWV depicts Brown standing in area just outside lobby at 2:17:17.

At 2:17:17, Chin turned back toward the door and walked into the lobby. At 2:17:23, Chin turned and again looked at Brown. In that six second time span, Brown had closed the distance between himself and the lobby doors by several feet and had drawn what appeared to be a black semiautomatic pistol. Chin immediately drew his service pistol and yelled, "Drop it! Drop it! Drop it! Put the gun down!"

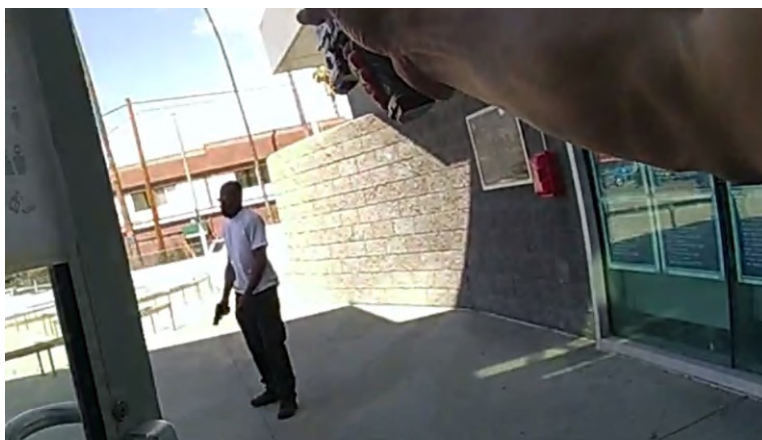


Figure 2: Still frame from Chin's BWV shows Brown having closed distance to Olympic station doors and now holding what appears to be a pistol in his right hand at 2:17:23.

¹ All times noted herein are taken from the involved officers' body worn camera timestamps.

Duong also ordered Brown to drop the gun. Duong used his radio to broadcast, “Officer needs help, Olympic Station ... male Black with a gun. White shirt, black pants.” Brown remained standing still while holding the gun to his side. Duong instructed Chin to “get to cover” and moved to the right toward a wall in the lobby adjacent to the glass doors.

As Chin continued to issue commands to Brown, Brown remained still, facing west, holding the gun in his right hand, which was slightly elevated (see Figure 2). Several officers began arriving to the lobby in response to Duong’s broadcast for help, including Sergeant Carlos Cruz, who began formulating a tactical plan. Cruz saw Brown holding the gun and said, in a subsequent compelled interview, that he wanted to obtain less-than-lethal options as well as superior gunfire and a cover officer to protect the officers inside the station. Cruz also radioed a request for traffic to be stopped on Vermont Avenue, which abuts Olympic station to the west.

As several officers were assembling in the station lobby, other officers were responding to the help call from the field. Officers Lopez and Cristopher Villegas arrived at approximately 2:18:15. At 2:18:19, Lopez, while pointing his department-approved Remington 870 12-gauge shotgun, ordered Brown to “drop that shit,” referring to the handgun still being held by Brown. Lopez moved to a position in front of Villegas along a wall that runs perpendicular to the glass windows and doors to the Olympic station (see Figure 5). Brown stood south of Villegas and Lopez’ position, facing west, so Brown’s right hand, which was holding the handgun, was closest to Villegas and Lopez. Villegas told Lopez to get cover. From 2:18:25 until 2:19:01, Lopez ordered Brown to drop the gun at least eight times.² Villegas pleaded with Brown to drop the gun, yelling, “It doesn’t have to go this way,” and telling Brown that he wanted to help him, but could not do so if Brown held the gun in his hand. At 2:20:08, Brown can be heard in the BWV saying something about his head. Villegas said during his subsequent compelled interview that Brown pointed to his head with his left finger, and Villegas believed Brown said, “They’re in my head. They’re trying to hurt my head.” At 2:20:10, Villegas said, “I can’t help you with that in your hand!” to which Brown replied, “Shoot me!” Villegas yelled, “No!”

At 2:20:17, Brown, still holding the handgun in his right hand, raised his right arm, pointing the muzzle of the gun toward Lopez, Villegas, and other officers positioned behind them. From approximately 45 feet away, Lopez fired one shotgun round at Brown, striking him in his lower body. During subsequent treatment, LAFD personnel determined that Brown suffered eight wounds, likely caused by the spreading shot from Lopez’ 12-gauge shotshell, to his pelvic area. Brown fell to the ground. The gun fell from his right hand and laid behind him.

² This was determined via Villegas’ BWV, during which Villegas’ own commands make it difficult to determine exactly how many times Lopez may have ordered Brown to drop his gun. Lopez did not properly activate his BWV during this incident, so no audio before or during the shooting was recorded on his BWV.

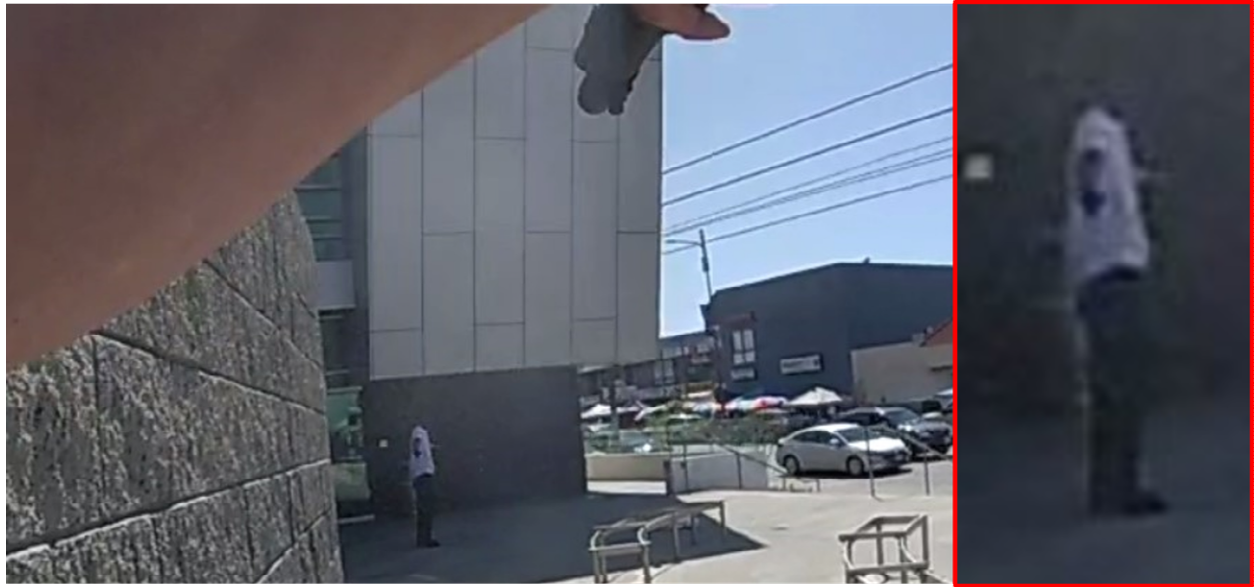


Figure 3: Still frame and close-up from Lopez' BWV at the moment of the officer-involved shooting, at which point Brown can be seen raising his right arm, pointing what appears to be a handgun toward Lopez.

Villegas, Lopez, and four other officers approached Brown and took him into custody. Officer Nicolas Rodriguez kicked the gun away from Brown. At 2:20:43, a rescue ambulance was requested for Brown. The scene was processed. The object Brown had been holding was collected and determined to be a Crossman Corp. Model C11, .177 caliber (BB) CO2 air pistol. The air pistol appeared to have significant damage to the muzzle and trigger guard consistent with ballistic damage caused by the shot from Lopez' shotgun. There was no gas canister in the air pistol, but there were two BB pellets in the magazine well and four additional BB pellets in the magazine, which was attached to the air pistol.



Figure 4: Air pistol held by Brown during officer-involved shooting. (A) depicts right side of air pistol; (B) depicts left side of muzzle. Yellow arrows indicate damage from shot from Lopez' shotgun.

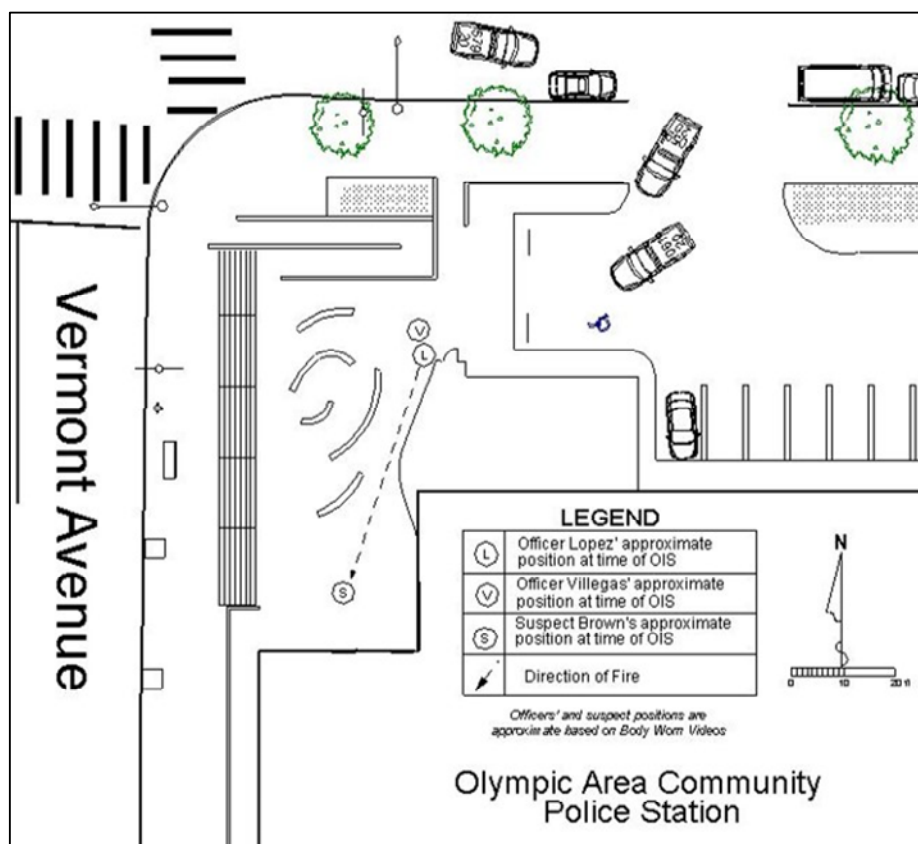


Figure 5: Diagram depicting approximate positions, determined using BWV, of Villegas, Lopez, and Brown at the time of the officer-involved shooting.

Stationery from the Avenue Hotel was located at the scene. Detectives investigating this incident determined Brown worked as a security guard at the Avenue Hotel located at 321 North Vermont Avenue. Brown also rented a room at this location, but missed his checkout date on March 23, so hotel management collected his belongings and subsequently turned them over to detectives when they visited the hotel on March 24 for this investigation. Included in the items retrieved by detectives from the hotel were an empty gun holster, two birth certificates bearing Brown's name, and handwritten notes on Avenue Hotel stationery. The notes read, in part, "The voices in my head will not stop...they celebrate when they get someone to kill someone... I'm committing suicide because no one will or can help me...mind control."

Civilian Witnesses

Civilian witnesses [REDACTED], [REDACTED], [REDACTED], and [REDACTED] were interviewed. These witnesses reported that they saw a man identified as Brown holding a gun outside the Olympic police station. They each indicated they were afraid of what Brown would do with the gun.

[REDACTED] stated that she heard Brown yell, "Fuck y'all" before the officer-involved shooting occurred. [REDACTED] also said that at one point, Brown pointed the gun in her direction as she stood

on the other side of Vermont Avenue from the police station, causing her to become afraid and help a ten-year-old girl next to her take cover.³

■■■■. was with her daughter when she saw Brown pointing a gun toward an officer that was in the doorway of the police station. When additional officers arrived, Brown pointed the gun at those officers. ■■■■ said she knew there was going to be a shooting, and she told her daughter, “If he doesn't let go of the weapon, they can shoot him because it's self-defense.”

■■■■. and ■■■■. were selling food at a stand near the intersection of 11th Street and Vermont Avenue. They each said they saw Brown with a gun. ■■■■. saw Brown point the gun at police, then at the street vendors. She took cover, and heard, but did not see, the officer-involved shooting.

Brown Criminal Filing and Background

Brown was charged in case 1CJ06733 with misdemeanor charges alleging violations of Penal Code §§ 417.4 and 148(a)(1), brandishing a replica firearm and resisting, obstructing, or delaying a peace officer, respectively. He successfully completed diversion and his case was dismissed. After the incident, the LAPD Mental Evaluation Unit (MEU) provided Brown with mental health services. Brown had one prior contact with MEU in May 2020. According to LAPD, Brown had three additional mental health-related contacts with outside agencies.

LEGAL ANALYSIS

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary either to: (1) defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code § 835a(c)(1)(A) & (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code § 835a(e)(2).

In assessing the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code § 835a(a)(4) & (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for

³ A review of video evidence does not corroborate Brown having pointed the gun at any civilians.

occasions when officers may be forced to make quick judgments about using force. Penal Code § 835a(a)(4).

The evidence in this incident shows that Brown brought what looked like a firearm to a police station. Brown was told by numerous officers to drop the gun. He refused to do so. BWV and civilian accounts provide strong evidence that Brown pointed the gun at officers, including Lopez. When Brown pointed the gun at Lopez, Lopez reasonably perceived, based on the information he had available at the time, that he faced an imminent threat of death or serious bodily injury from what appeared to be a firearm.

Under these circumstances, an objectively reasonable peace officer could fairly conclude that Brown had the present ability, opportunity, and intent to cause immediate death or serious bodily injury to Lopez and other officers standing near him. Accordingly, it was reasonable for Lopez to believe that it was necessary to use deadly force.

CONCLUSION

We find that Lopez acted in lawful self-defense and defense of others when he used deadly force against Brown.