

Fatal OfficerInvolved Shooting of Lino Soltero
Los Angeles Police Department

Officer Charles Hosea, #43216

J.S.I.D. File #22-0242



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 12, 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 Lino Soltero
J.S.I.D. File #22-0242
L.A.P.D. File #F040-22

DATE: October 12, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 22, 2022, fatal shooting of Lino Soltero by Los Angeles Police Department (LAPD) Officer Charles Hosea. We have concluded that Officer Hosea acted in lawful self-defense and defense of others at the time he fired his service weapon, reasonably believing, based on the totality of the circumstances, that deadly force was necessary to defend himself and others against an imminent deadly threat.

The District Attorney's Command Center was notified of the shooting on July 22, 2022, at 7:46 p.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by LAPD Lieutenant David Smith.

The following analysis is based on radio calls, body worn camera video (BWV), investigative reports, audio recordings and transcripts of witness interviews, crime scene diagrams and photographs, autopsy and toxicology reports, and surveillance video submitted to this office by LAPD Force Investigation Division (FID) Detective Anthony Rheault on August 1, 2023.

Any compelled statement by Officer Hosea was not considered in this analysis.

FACTUAL ANALYSIS

The Foot Pursuit

On July 22, 2022, at approximately 6:50 p.m., Officers Christian Tovar and Charles Hosea were in uniform and on patrol in a marked patrol car in East Los Angeles in an area where motor vehicle "chop shops" were reported to be operating. Tovar and Hosea saw a black Nissan without a rear license plate displayed, and they suspected the vehicle could be stolen. The officers positioned their patrol vehicle behind the Nissan with the intention of conducting a traffic stop. The unidentified female driver of the Nissan, looking in her sideview mirror at the

following patrol car, and a male later identified as Lino Soltero in the passenger seat, are shown in the video surveillance below:

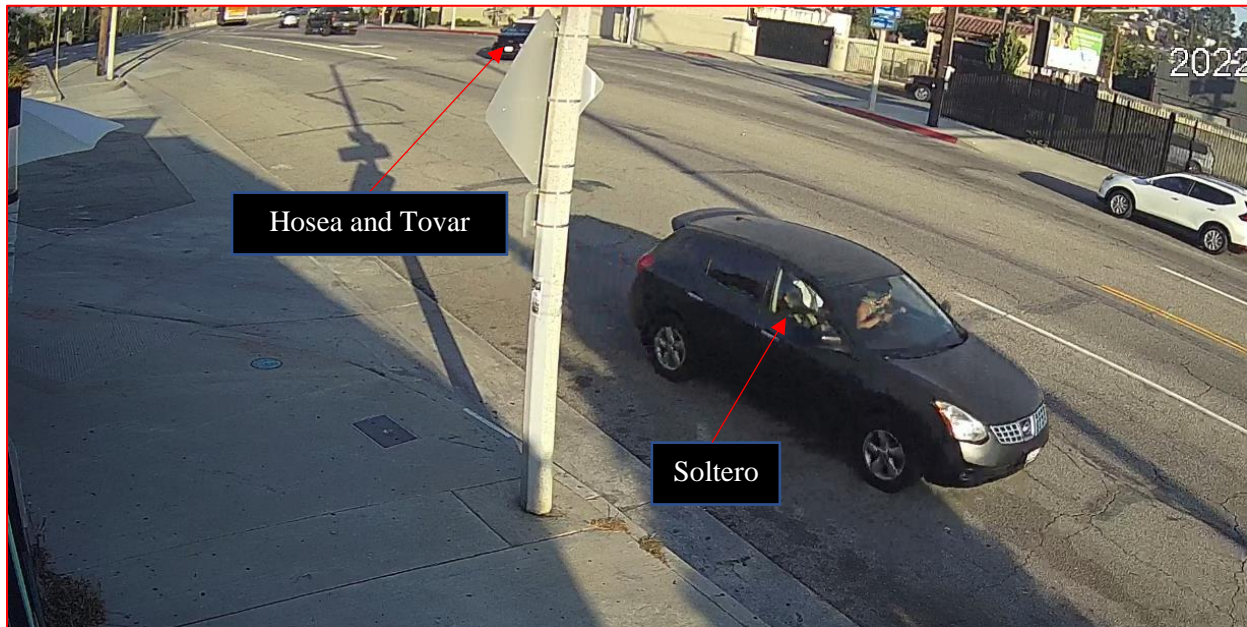


Figure 1-Video of Hosea and Tovar Positioning Their Patrol Car Behind the Nissan.

Based on BWV and surveillance video and Tovar's compelled statement, before the officers could conduct a traffic stop, the Nissan slowed and Soltero exited with a gun in his right hand and ran away.¹ Hosea exited the passenger side of the patrol vehicle and announced to Tovar, "Hey, he has a gun!" Hosea and Tovar drew their service weapons and pursued Soltero on foot.

The Nissan fled and crashed into another automobile and fled again. The driver has not been identified and the Nissan has not been recovered.

Tovar radioed for backup and both officers yelled repeatedly at Soltero to drop the gun. Surveillance video of Soltero running with a gun in his right hand with Tovar and Hosea giving chase is shown in the photos below:

¹ It was determined after the shooting that Soltero was on parole for assault with a firearm in Los Angeles Superior Court case number BA405056.



Figure 2-Video of Soltero Running with a Gun in His Right Hand and Hosea and Tovar Chasing.



Figure 3-Video of Tovar Running with a Gun in His Right Hand and Hosea Chasing.

The pursuit route is shown in the diagram below:

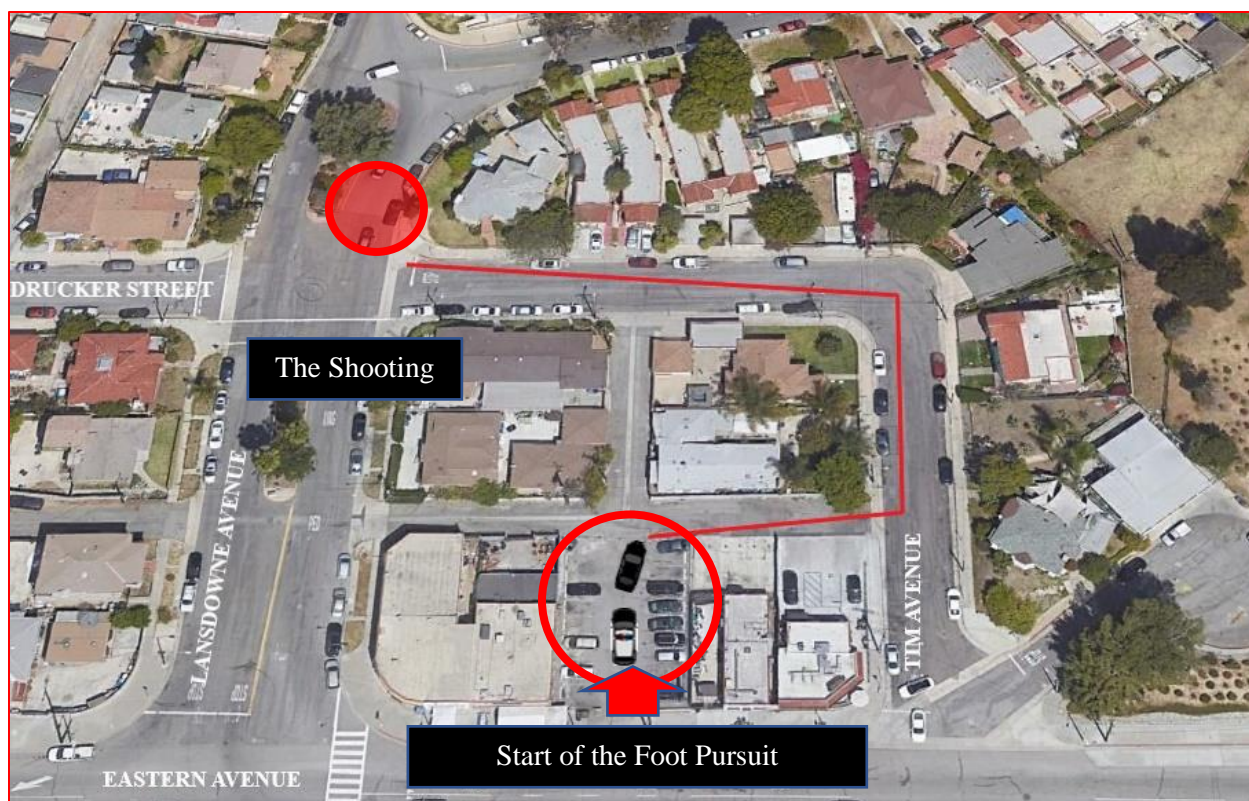


Figure 4-Diagram of the Pursuit Route.

The Shooting

As Soltero was running away, he appeared to trip and fall, hit the ground, and then point his gun at Hosea, who fired eighteen rounds at Soltero from his service weapon. Tovar's perspective from his BWV at the time of the shooting, which shows Soltero pointing his gun in Hosea's direction, is shown below:



Hosea's perspective at the time of the shooting, from his BWV, which appears to show Soltero looking in Hosea's direction with a dark object in his hand, and Tovar taking cover as shots were fired, is shown below:



Figure 5-Hosea's BWV at the Time of the Shooting.

After the shooting, officers approached Soltero, secured the gun under his hand, and rendered medical aid. Soltero died at the hospital a short time later. BWV of Soltero with his hand resting on top of the gun is shown below:

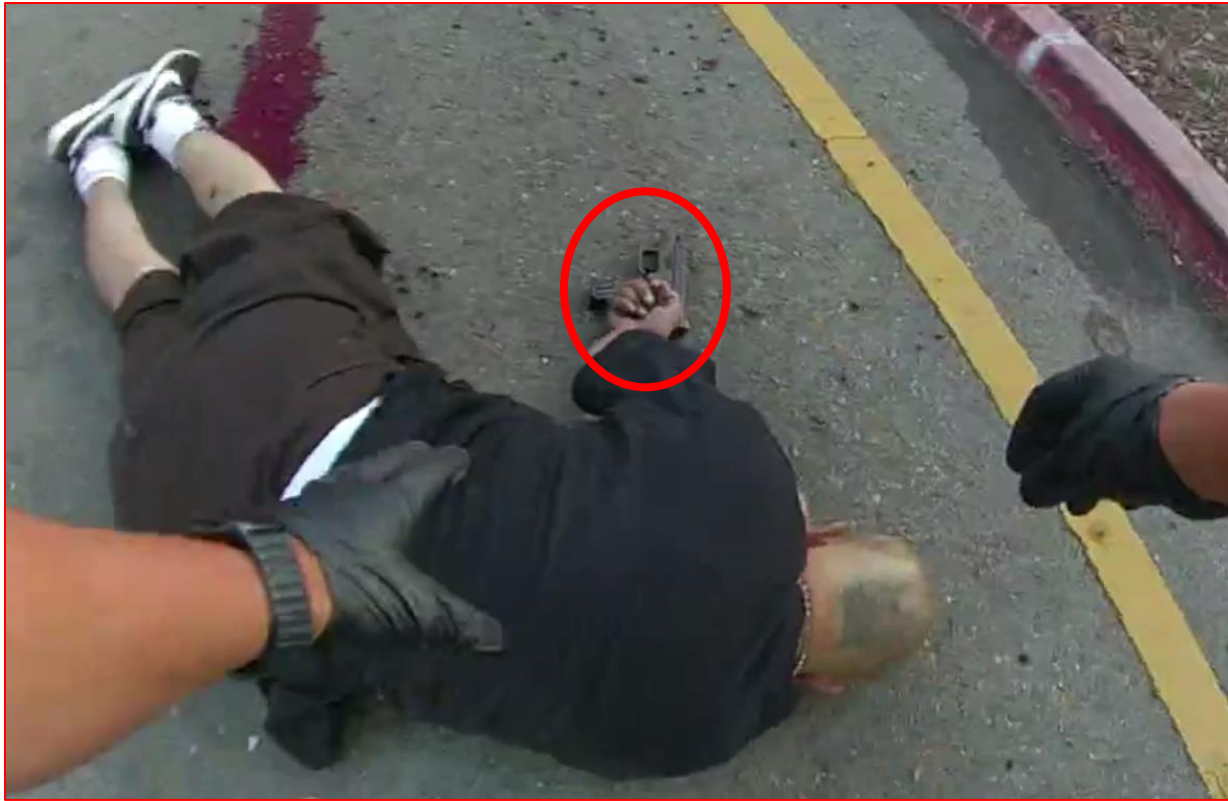


Figure 6-BWV of Soltero After the Shooting with His Hand Resting on Top of His Gun and Pointed in the Direction of Hosea at the Time of the Shooting.

Firearms Evidence

Hosea was armed with a 9mm semiautomatic service weapon. Eighteen 9mm shell casings were recovered from the scene and matched with Hosea's weapon, which is consistent with him firing 18 rounds.

Soltero was armed with an operable 9mm semiautomatic handgun loaded with ten live rounds. When the gun was recovered, the magazine was partially ejected, the slide was slightly rearward, and a discharged cartridge casing was lodged in the ejection port, suggesting that Soltero fired his handgun during the incident, and his gun jammed. It cannot be determined with certainty when Soltero fired. Photos of the gun in the condition it was recovered, showing the magazine partially ejected and a discharged cartridge casing lodged in the gun's ejection port are shown below:



Figure 7-Photo of Soltero's Gun in the Condition it was Recovered.



Figure 8-Photo of Soltero's Gun with a Discharged Cartridge Casing Lodged in the Ejection Port.

Autopsy

On August 23, 2022, Los Angeles County Deputy Medical Examiner Martina Kennedy, M.D. performed an autopsy of Soltero's remains. Dr. Kennedy formed the opinion that Soltero died of multiple gunshot wounds. Soltero had eight gunshot entrance wounds to the front of his body, one of which was rapidly fatal. There were three gunshot wounds to the back of the body (left thigh and left buttocks) that were non-fatal. Toxicology testing was performed and detected the presence of alcohol in Soltero's blood at the time of his death.

Officer Tovar's Statement

Tovar provided a compelled statement to investigators. He said he was driving the patrol car and Hosea was the passenger officer. They saw the Nissan without license plates, believed it could be a stolen vehicle, positioned behind the vehicle, and prepared to conduct a traffic stop. Before they could do so, the Nissan slowed and the passenger, Soltero, ran. Hosea alerted Tovar that Soltero had a gun. Hosea and Tovar drew their service weapons and chased Soltero, who had a gun in his hand. The officers issued numerous commands to Soltero to drop the gun as Tovar radioed for backup. Soltero stumbled and fell. Tovar stumbled also. Soltero hit the ground, dropped his gun, picked it up, and pointed it at Hosea. Tovar stated that from his vantage point it appeared that Soltero's gun may have malfunctioned because the slide appeared locked back. Soltero nonetheless pointed the gun at Hosea and that is when he heard gunshots. Initially, Tovar did not know if it was Soltero or Tovar who was firing.

LEGAL ANALYSIS

The Law

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or another person; or (2) to 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 section 835a(c)(1)(A) & (B).

Deadly force shall be used "only when necessary in defense of human life," and officers "shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Penal Code section 835a(a)(2).

"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 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 section 835a(e)(2).

When considering 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 section 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

Analysis

There is compelling evidence in this case, including video of the shooting, that Soltero, with the presence of alcohol in his system and on parole for assault with a firearm, was armed with a loaded and operable firearm that he wielded while running from Hosea and Tovar. The officers issued numerous commands to Soltero to stop and drop the gun. Soltero did not comply. Soltero tripped and fell and while on the ground pointed his gun at Hosea, who fired eighteen rounds at Soltero, striking and killing him. It cannot be determined from the evidence if Soltero fired his gun during that exchange, or prior. Neither officer was injured. Ultimately, the evidence supports a reasonable belief by Hosea that Soltero was armed with a firearm, was highly motivated to escape the officers, and presented a deadly threat to the officers and the public. When Soltero pointed his gun at Hosea, it was necessary for him to fire his service weapon at Soltero to protect himself and his partner officer from an imminent deadly threat.

CONCLUSION

For the foregoing reasons, we find that Officer Hosea's use of deadly force was reasonable under the circumstances, and he acted lawfully in self-defense and in defense of others.