

Fatal Officer Involved Shooting of Anthony Loia
Long Beach Police Department

**Long Beach Police Department Officers Darrek Cano, Serial # 11104,
Bryan Pasion, Serial # 10845, Keyen Foley, Serial #10908, Juan Urrieta,
Serial #10802, and Julian Perez , Serial #11201**

J.S.I.D. File #21-0054



GEORGE GASCÓN
District Attorney

Justice System Integrity Division
October 19, 2023

MEMORANDUM

TO: CHIEF WALLY HEBEISH
Long Beach Police Department
400 West Broadway
Long Beach, California 90802

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Anthony Loia
J.S.I.D. File #21-0054
L.B.P.D. File #21-6195

DATE: October 19, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 6, 2021, fatal shooting of Anthony Loia by Long Beach Police Department (LBPD) Officers Darrek Cano, Bryan Pasion, Keyen Foley, Juan Urrieta, and Julian Perez. We find that it was reasonable based on the totality of the circumstances for all five officers to believe deadly force was necessary to defend against an imminent threat of death or serious bodily injury.

The District Attorney's Command Center was notified of the shooting on February 7, 2021, at approximately 1:08 a.m. The District Attorney Response Team responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk through of the scene.

The following analysis is based upon the recorded interviews of involved parties and witnesses, body worn camera video (BWV), photographs and reports prepared by LBPD and submitted to this office by Detectives Donald Collier and Leticia Gamboa of the LBPD Homicide Bureau on February 1, 2022. No compelled statements were considered; however, several of the shooting officers voluntarily wrote police reports and those were considered.

FACTUAL ANALYSIS

On February 6, 2021, at approximately 9:12 p.m., an emergency call came in that there was a person with a knife at 15th Street and Magnolia Avenue. A few minutes later the caller corrected to say that the man had a gun not a knife. The calling party added that the man had changed locations and had pointed the gun at her. Dispatch relayed to the officers that were en route that a man, on foot, wearing a gray hat, gray hoodie and black shoes was waving a medium-sized black gun at vehicles passing by.

Several officers from LBPD responded to the location. Anthony Loia (Loia) was walking northbound on the sidewalk with a gun in his right hand. Loia was waving the gun around and he did not respond to numerous commands from the officers to drop the weapon. At 9:22 p.m., numerous shots were simultaneously fired at Loia by five officers. Foley fired six shots, Cano fired four shots, Pasion fired seven shots, and Perez and Urrieta each fired one shot. Loia suffered fifteen gunshot wounds all over his body. A loaded, semiautomatic Polymer P80 9mm firearm with the serial number scratched off was recovered from the scene. Loia's gun had one cartridge in the chamber and three in the magazine.

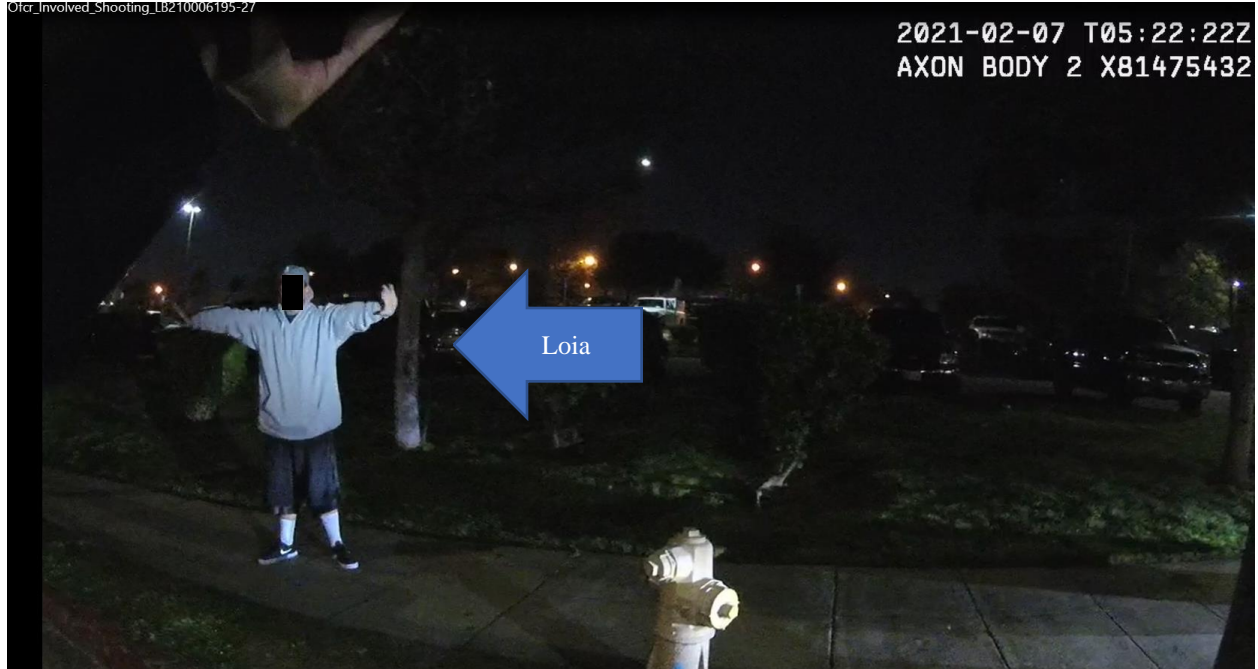
Body Worn Camera Video Footage (BWV)

All officers were equipped with body worn cameras. Loia was clearly and visibly armed with a gun. Perez encountered Loia first as Loia was crossing the street to the sidewalk. Perez immediately and repeatedly told Loia to, "Put it down." Loia ignored Perez's commands and continued walking. Moments later, as other officers arrived, Loia turned and put his hands up.

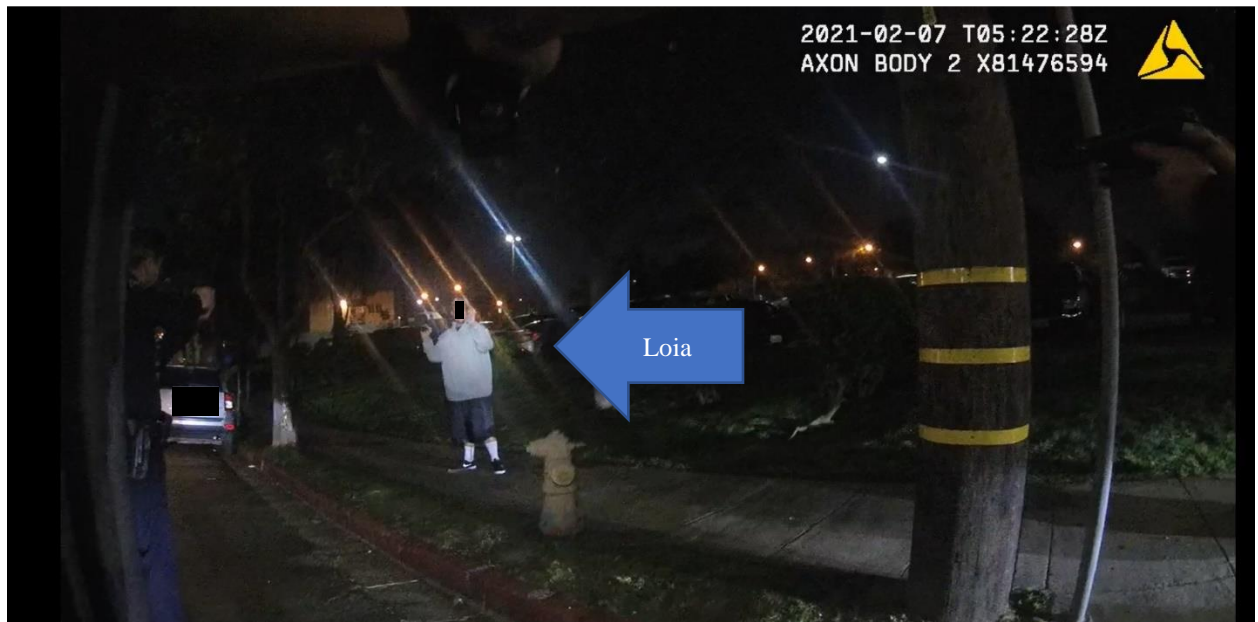
Multiple officers were giving Loia commands to "Put the gun down" or "put it down." Loia had his arms outstretched with the firearm in his right hand and a baseball cap in his left hand. Loia put the baseball hat on his head backwards and then extended both of his arms. Loia bent his arms back and forth in an outward gesture. It appears that he waved the gun while he shook his hands up and down. Neither his face nor body language suggest an intent to be aggressive; however, in waving the gun while trying to communicate, Loia pointed the weapon directly at the officers. All the officers appear to shoot simultaneously as there is a brief hail of bullets that came from all directions at the moment Loia waved the weapon in their direction.



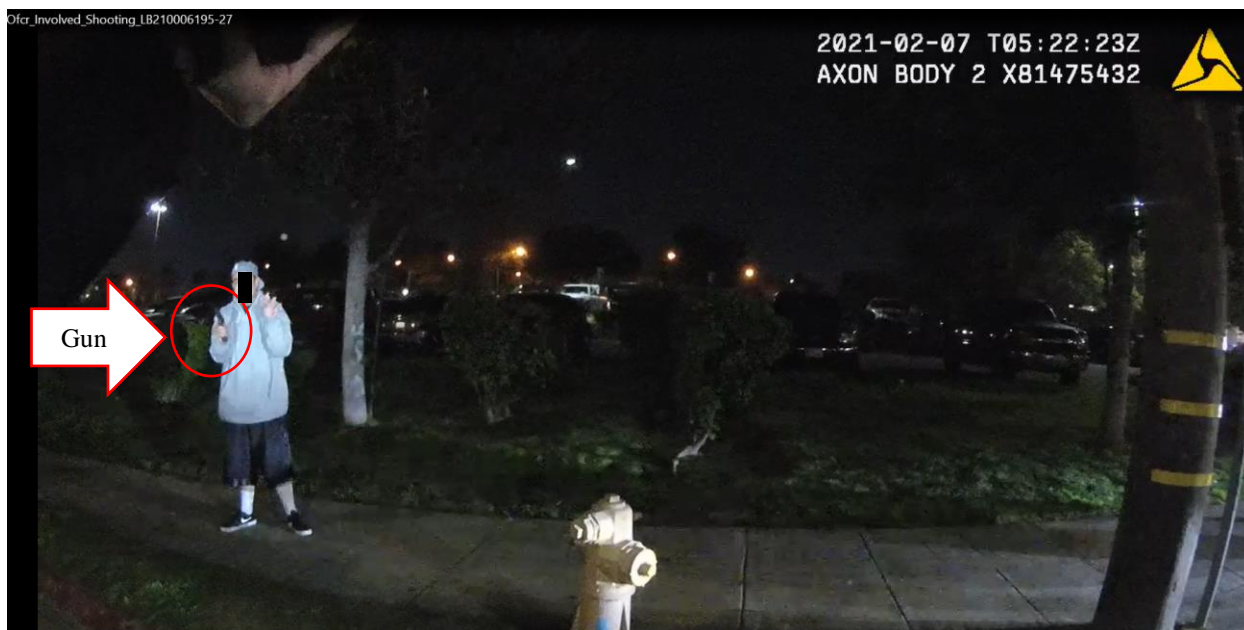
Still photograph taken from Perez's BWV showing Loia with his arms up with a hat in his left hand and a gun in his right hand.



Still photograph taken from Perez's BWV showing Loia with his arms extended and with the gun in his right hand.



Still photograph taken from Pasion's BWV showing Loia with his arms bent and with the gun in his right hand.



Still photograph taken from Perez's BWV showing Loia as his gun is pointed in the direction of officers. This still photograph is just prior to the officers firing their weapons.

Officer Keyen Foley

On February 8, 2021, at 2:04 p.m., Foley submitted a police report regarding this incident. Prior to writing his report, Foley reviewed his BWV and did a walk-through of the scene.

Foley wrote that on February 6, 2021 at approximately 9:14 p.m., he and Larson, his partner, were working uniformed patrol in a marked black and white police vehicle when they were dispatched to a call of a man with a gun. They responded to Anaheim Street and Magnolia Avenue in Long Beach. As they were traveling, Larson reread the call of the description of the suspect they were looking for, specifically, "A male Hispanic wearing a gray hat, gray hooded sweatshirt and black shorts. He was last seen with a medium sized gun."

Foley observed Loia, who met the description, walking northbound on Magnolia Avenue. Foley stated that Loia was walking in a very aggressive manner in that his steps were fast and he was swinging his arms back and forth causing him to puff his chest out. Foley also observed a black semi-automatic handgun in Loia's right hand with the barrel of the firearm pointing down towards the ground. Foley then told his partner, "There he is!" Foley did not stop immediately because he believed that would have given Loia an advantage to shoot him if he exited his vehicle right next to him.

Foley noted that Loia did not run away upon seeing the police car, but rather just continued walking as though the police were not there. Foley conducted a U-turn and stopped his patrol vehicle behind Loia. As Foley prepared to park, he noticed other police vehicles arriving at the location. Foley also noticed Officer Perez standing in the northbound lanes with his firearm drawn. From his location, Foley could see Perez speaking to Loia though he was not able to hear the words exchanged.

Upon parking at Magnolia Avenue and 14th Street, Foley exited his vehicle and drew his service weapon because he observed Officer Perez standing in the middle of northbound lanes of travel on Magnolia Avenue. Foley wrote that Officer Perez did not have any type of cover or concealment and he could hear Officer Perez attempting to deescalate the situation by giving clear commands to Loia to “Drop it, put it down, put the gun down.” However, Loia continued to walk away northbound from Officer Perez and did not obey his commands. Foley also did not see Loia acknowledge Perez or hear him respond to Perez.

Foley ran to the east curb of Magnolia Avenue behind a telephone pole that provided concealment and cover. Foley observed Officers Cano, Urrieta and Pasion standing in the northbound lanes on Magnolia Avenue.

Foley observed Loia stop walking, turn to his left and face Perez. Loia was standing with his feet shoulder width apart with both arms down at his side. Loia was still holding the gun in his right hand while officers continued with verbal commands to drop the firearm. Loia ignored their commands to drop the firearm and placed both of his hands in the air while still holding the firearm in his right hand. Loia then appeared as if he was going to drop both of his hands back down. However, Loia’s left hand went down all the way by his side but his right hand, which still had the firearm in it, did not go all the way down, but rather stopped at a 90 degree angle.

Foley wrote that Loia’s elbow was at his right hip, pinned against his side as if he was taking a shooting stance to shoot from the hip. This stance caused the barrel of Loia’s firearm to be pointed directly at Officer Perez. Seeing the firearm pointed at Perez, Foley believed Loia was an imminent threat to Perez. Foley wrote, “I believed based on the call for service I was dispatched to, the suspect refusing to comply with an Officer’s lawful commands, the suspect now pointing a firearm at an Officer, and an Officer that was in the open with no cover, I believed the Suspect was going to shoot Officer Perez.”

Foley wrote that he feared if he did not act that Perez may be shot or killed. Foley discharged his firearm once and reassessed. Upon seeing that Loia was still pointing the firearm at Perez, Foley continued to discharge his weapon at Loia until the firearm and Loia fell to the ground. Foley wrote that he fired his service pistol 10 times.¹

Officer Juan Urrieta

On February 8, 2021, at 3:49 p.m., Urrieta submitted a police report regarding this incident. Prior to writing the report, Urrieta reviewed his body camera video footage.

Urrieta wrote that on February 6, 2021 he was working with his partners, Pasion and Cano in an unmarked black dual-purpose police vehicle equipped with lights and a siren. Urrieta was driving. Pasion was the front passenger and Cano was the rear passenger behind the front passenger seat. At approximately 9:14 p.m., dispatch sent Officers Larson and Foley to the area of Magnolia Avenue and 15th Street regarding a person with a gun. At approximately 9:15 p.m., dispatch advised over the radio that the subject with a gun was last seen on foot traveling

¹ All of the officers’ casings were accounted for and a round count of Foley’s weapon showed that he only fired his weapon six times.

eastbound on 15th Street and Chestnut Avenue. The caller no longer could see the subject. Urrieta and his partners assisted on the call and began driving from Pacific Avenue and 15th Street to the area where the person with the gun was last seen.

At approximately 9:19 p.m., the calling party, "Jenny," stated she was at Anaheim Street and Magnolia Avenue near the taco shop. "Jenny" then stated that she did not "want to be a victim," but the subject did point the gun at her. "Jenny" said she lost sight of the subject with the gun.

Urrieta made a northbound turn on Magnolia Avenue from Anaheim Street. Perez advised over the radio that he was contacting Loia and that Loia had a gun. Urrieta was approximately 30-35 yards away and started driving northbound. Urrieta saw Perez standing in the roadway of Magnolia Avenue north of 14th Street. Perez's black and white police vehicle was in the roadway. Perez was pointing his firearm at Loia. Loia was wearing a gray hooded sweatshirt and black shorts. Loia was approximately 7-10 yards from Perez.

Urrieta stopped his vehicle behind Perez and activated his BWV. As he stepped out of the vehicle, Urrieta heard multiple clear commands of, "Drop the gun!" Loia was already illuminated by a light and Urrieta was able to see Loia was facing towards him, holding a black gun in his right hand. Using the engine block as cover, Urrieta stayed behind the front driver side tire.

Urrieta wrote, "I pulled out my firearm that's equipped with a light out of my holster and pointed my firearm toward Loia for the safety of civilians, my partners, and myself. Loia was not listening to the commands and [was] not dropping the gun. Loia then brought his right arm in toward his body pointing the firearm in an upward direction and then pointed the gun at me. I yelled, "Put the gun down" and began taking a knee to use the vehicle as cover. Loia remained pointing the gun at me and I discharged my firearm once at his upper torso. Other officers also discharged their firearms at Loia."

After the officers discharged their firearms, Loia dropped the gun and fell in a backwards direction. The gun landed approximately 24 to 48 inches southwest of his feet on the sidewalk near the patch of grass."



Photograph of Loia's loaded Polymer P80 9mm pistol where it came to rest.

Officer Darrek Cano

On February 8, 2021, at 4:53 p.m., Cano submitted a police report regarding this incident. Prior to writing the report, Cano reviewed his body camera video footage.

Cano wrote that on February 6, 2021, he was working uniformed patrol with his partners Urrieta and Pasion. They were in an unmarked black Crown Victoria patrol vehicle equipped with light bar and siren. Urrieta was driving the patrol vehicle, Pasion was in the front passenger seat and Cano was in the back.

At approximately 9:15 p.m., they responded to the area of Magnolia Avenue and 15th Street to assist a call regarding a person with a gun. A short time later another call came in that the subject was at a taco stand at Anaheim Street and Magnolia Avenue and that he had pointed a gun at the calling party. Perez then advised via police radio that he had located the subject on Magnolia Avenue and 14th Street.

Urrieta drove the patrol vehicle to the location to assist Perez. Cano observed Perez in the roadway on Magnolia Avenue and saw Loia standing on the east sidewalk approximately 15 feet from Perez. Cano saw Loia holding a black handgun in his right hand. Perez appeared to be giving Loia commands, but Cano could not hear them initially. It appeared that Loia was arguing back with Perez.

Cano exited the back of the patrol vehicle and activated his BWC. Cano wrote, "Due to Officer Perez's close proximity to Loia and the lack of cover and concealment, I felt it was tactically important to step toward Loia and provide Officer Perez assistance in dealing with Loia. I observed Loia holding a firearm in his right hand. I could clearly see the firearm, which was all black in color, as other officers used their lights to illuminate Loia. I observed Loia's firearm did not have an orange tip or any indication that it was a replica firearm, and I therefore formed the opinion that Loia was in possession of a real (and not a replica) firearm."

Cano yelled for Loia to drop the firearm approximately two or three times and he also heard other officers demanding the same. Loia did not comply and raised his arms upwards while still holding the firearm in his right hand. Cano had his firearm pointed at Loia. Cano formed the opinion that using nonlethal force was not feasible. As Loia's right forearm became near parallel with the ground, the firearm in Loia's hand was now pointed in the direction of Perez.

Cano wrote that he believed Loia posed an imminent threat to the safety of officers as well as the citizens living in the surrounding area. Cano wrote that he believed if Loia was able to discharge his firearm, it would likely cause death or serious bodily injury to officers or to citizens living in the surrounding area. Cano aimed his sights on the center mass of Loia's chest and depressed the trigger and discharged his firearm. Cano wrote, "After discharging each round, I reassessed the situation and the imminent threat Loia posed. I discharged my firearm four times because the situation remained unchanged and Loia continued to pose an imminent threat to the officers and citizens..."

After Loia fell to the ground and the firearm Loia held also fell to the ground, Loia no longer presented an imminent threat, and no further force was used. Cano then ensured Loia's gun was undisturbed so other officers could render aid to Loia.

Officer Bryan Pasion

On February 8, 2021, at 5:46 p.m., Pasion submitted a police report regarding this incident. Prior to writing the report, Pasion did a walkthrough of the scene and reviewed his body camera video footage.

Pasion wrote that on February 6, 2021, he was working uniformed patrol with Urrieta and Cano in an unmarked black dual-purpose vehicle. Pasion was in the front passenger seat. At approximately 9:15 p.m., Pasion and his partners responded to a call regarding a person with a gun in the area of 15th Street and Magnolia Avenue.

Upon reaching the location where Loia was standing, Pasion immediately noticed he was holding a black handgun in his right hand. Pasion observed Loia's arms bending in a 90 degree angle at his elbows and both arms were raised above his shoulder area. The handgun was pointed towards the sky. Pasion believed the gun was real and a deadly weapon.

Pasion heard Perez give Loia commands to drop the gun. Pasion exited the vehicle and stood just outside the front passenger door with his service pistol in his hands. Pasion watched as Loia motioned the gun from side to side several times and heard Loia say something that Pasion could not understand. Pasion repeatedly yelled for Loia to drop the gun. Loia suddenly lowered his right arm and pointed the handgun towards Pasion and his partners.

Pasion said he believed force was reasonable and necessary to protect himself and his partners. Pasion did not believe less lethal force was an option in this situation. Pasion pointed his service pistol directly at Loia and activated his light. Pasion wrote that he discharged his weapon six to eight times directly at Loia. Pasion wrote that he "constantly reassessed" every discharge of his

pistol while Loia was pointing his gun at Pasion and his partners. Pasion wrote that he believed the imminent threat was over when Loia fell backwards and Loia's gun fell to the ground.

Coronor's Report

On February 10, 2021, Deputy Medical Examiner Matthew J. Miller, M.D., performed an autopsy on Loia's body and determined the cause of death to be gunshot wounds. Loia suffered a total of fifteen gunshot wounds. Loia suffered two gunshot wounds to the abdomen, three gunshot wounds to the torso, one gunshot wound to the left back, two gunshot wounds to the left thigh, two gunshot wounds to the right thigh, one gunshot wound to the left leg, one gunshot wound to the left arm, one gunshot wound to the left upper extremity and two gunshot wounds to the left foot. Five of the gunshot wounds were potentially rapidly fatal in that Loia's suffered liver and kidney perforation, lung perforation, aorta perforation and femoral vein perforation. A toxicology drug screen was performed on Loia's chest and femoral blood. Both blood samples were found to contain amphetamine and methamphetamine.

LEGAL ANALYSIS

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. Penal Code section 835a.

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 for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to 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) and (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 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 is 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).

The jury instructions for self-defense say that 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 and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505.

In the current case, officers attempted to detain and disarm a person erratically displaying a loaded semiautomatic pistol while walking on a public street. The body worn video clearly shows that the subject refused numerous commands to drop the weapon and instead waved the gun around in various directions including directly at Officer Perez. This action reasonably could have caused the officers to believe Officer Perez was in imminent danger. Under the circumstances, the officers' stated belief that they reasonably believed that deadly force was necessary to defend against an imminent threat of death or serious bodily injury was supported by the evidence.

CONCLUSION

Based on the totality of the evidence, we find We find that it was reasonable based on the totality of the circumstances for LBPD Officers Darrek Cano, Bryan Pasion, Keyen Foley, Juan Urrieta, and Julian Perez to believe deadly force was necessary to defend against an imminent threat of death or serious bodily injury.