Fatal Officer Involved Shooting of Samuel Alamillo

Los Angeles Police Department

Officer Antonio Hernandez, #36120
Officer David Gomez, #39044
Officer Charles Medrano, #41476
Officer Efrain Moreno, #41478
Officer Moises Ponce, #42245
Officer Jose Ramirez, #34990
Officer Jonathan Jarvis, #42585
Officer Walter Casasola, #40354
Officer Alex Frazier, #40357

J.S.I.D. File #17-0333

GEORGE GASCÓN

District Attorney

Justice System Integrity Division

November 15, 2022

MEMORANDUM

TO: CAPTAIN RICH GABALDON
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 Samuel Alamillo
J.S.I.D. File #17-0333
L.A.P.D. File #F049-17

DATE: November 15, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 28, 2017, fatal shooting of Samuel Alamillo by Los Angeles Police Department (LAPD) Officers Antonio Hernandez, David Gomez, Charles Medrano, Efrain Moreno, Moises Ponce, Jose Ramirez, Jonathon Jarvis, Walter Casasola, and Alex Frazier. We have concluded that there is insufficient evidence to prove the officers did not act lawfully in self-defense and the defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 8:08 p.m. on June 28, 2017. The District Attorney Response Team responded to the location and was given a briefing and walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, firearm analysis reports, crime scene diagrams, photographs, video evidence, an autopsy report, and witness statements submitted to this office by LAPD Force Investigation Division (FID). The compelled statements of each of the involved officers were not considered as part of this analysis.[1]

FACTUAL ANALYSIS

On June 28, 2017, at approximately 7:08 p.m., LAPD Rampart Area Gang Enforcement Detail (GED) Officers Antonio Hernandez and David Gomez were assigned to conduct gang enforcement in the Rampart Area. The officers were wearing distinct LAPD uniforms and were traveling in a marked black and white hybrid police vehicle equipped with a dash camera. As the officers traveled south on Witmer Street, they saw Samuel Alamillo and [redacted] on the east

[1] All involved officers, except for Jonathon Jarvis and Jose Ramirez, were equipped with and activated their body worn video (BWV). The relevant actions of Jarvis and Ramirez can be seen on other officers' BWV.

sidewalk near a large red produce truck.[2] Hernandez and Gomez stopped and exited their police vehicle to investigate a possible gang injunction violation. [redacted]. walked away, and the officers attempted to speak with Alamillo.

Alamillo had his right hand in a backpack he was wearing on the front of his body, and as Hernandez approached, he told Alamillo to remove his hand from the backpack multiple times. Alamillo refused to comply and repeatedly told the officers, "Shoot me!" Gomez drew his duty weapon, pointed it at Alamillo, and ordered Alamillo to take his hand out of his backpack. Hernandez radioed for backup, took cover behind a parked vehicle, and drew his service weapon. Hernandez and Gomez repeatedly ordered Alamillo to turn around and remove his hand from his back; however, Alamillo refused as he walked back and forth on the east sidewalk of Witmer Street. Gomez then requested via hand-held radio that a "Code-Sam" equipped unit respond to the location.[3]

Shortly thereafter, LAPD Officers Charles Medrano, Efrain Moreno, Oscar Duenas, and Moises Ponce arrived at the scene. Duenas walked toward Alamillo, who was now standing behind a red produce truck, and pointed a Taser at him. Alamillo immediately removed a chrome semiautomatic handgun from his backpack and pointed it to the right side of his head.

Figure 1 – Still image taken from Duenas' BWV depicting Alamillo holding a gun to his head as Duenas pointed a Taser at him. Inset is a photograph of Alamillo's firearm.

Hernandez repeatedly yelled at Alamillo, "Drop the fucking gun!" and "Drop the gun!"

[2] Alamillo and [redacted]. were documented gang members who had previously been served with the Rockwood Street Locos gang injunction.
[3] "Code-Sam" equipped is the radio code for a police unit with a less lethal beanbag shotgun.

As this was occurring, Jarvis and Ramirez arrived and exited their patrol vehicle.[4] Jarvis was armed with a less lethal beanbag shotgun. Ramirez yelled, "Beanbag up, beanbag ready, beanbag up, beanbag up!" Jarvis then fired four rounds from the beanbag shotgun at Alamillo.

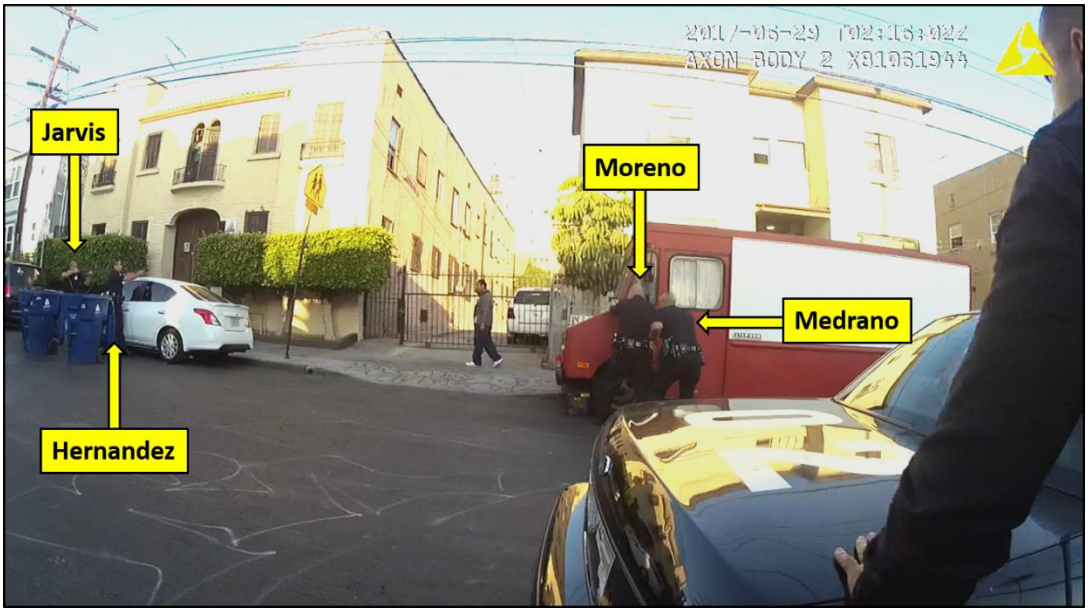

Figure 2 – Still image taken from Duenas' BWV depicting the officer positions when Jarvis deployed four beanbag rounds.

Alamillo did not appear affected by the rounds and remained on the sidewalk armed with the handgun. Alamillo began walking southbound on the east sidewalk with the gun still pointed at his head. Alamillo walked past the red produce truck and continued south on the east sidewalk. Hernandez, Medrano, Moreno, Ponce, Duenas, Ramirez, and Jarvis followed Alamillo while remaining in the roadway. Duenas yelled, "One shooter! One shooter!" followed by, "We can't let him get inside!"[5] At this point, all the officers had drawn their service weapons. Officers Walter Casasola and Alex Frazier arrived at the scene, south of the other officers. Casasola ran north and joined the other officers as Frazier retrieved his LAPD rifle from the trunk of the patrol vehicle before taking cover behind a vehicle parked south of Alamillo.

As Alamillo walked south on Witmer Street, officers repeatedly yelled at him to drop the gun. At one point, Alamillo lowered the handgun from his head and continued walking south. At 7:16:31 p.m., Alamillo stopped walking, turned toward the officers, and began yelling at them.[6] As he yelled, Alamillo kept his firearm in his right hand by his side as he pointed at the officers with his left hand. At 7:16:34 p.m., Jarvis discharged two rounds from the beanbag shotgun, striking Alamillo. In response, Alamillo raised the firearm to his head before extending his right arm and pointing the handgun toward Officers Hernandez, Duenas, and Ponce.

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[4] At this time, an LAPD Airship also arrived at the location and began monitoring the situation from above. Witnesses described the helicopter as "low" or close to the ground during the incident.
[5] This area of Witmer Street was lined with apartment buildings.
[6] The LAPD helicopter was overhead and creating a substantial amount of noise, making his words unintelligible on the officers' BWV. The timing of the events was obtained from the officers' BWV.

Figure 3 – Still image taken from Moreno's BWV depicting Alamillo pointing a handgun at LAPD officers.

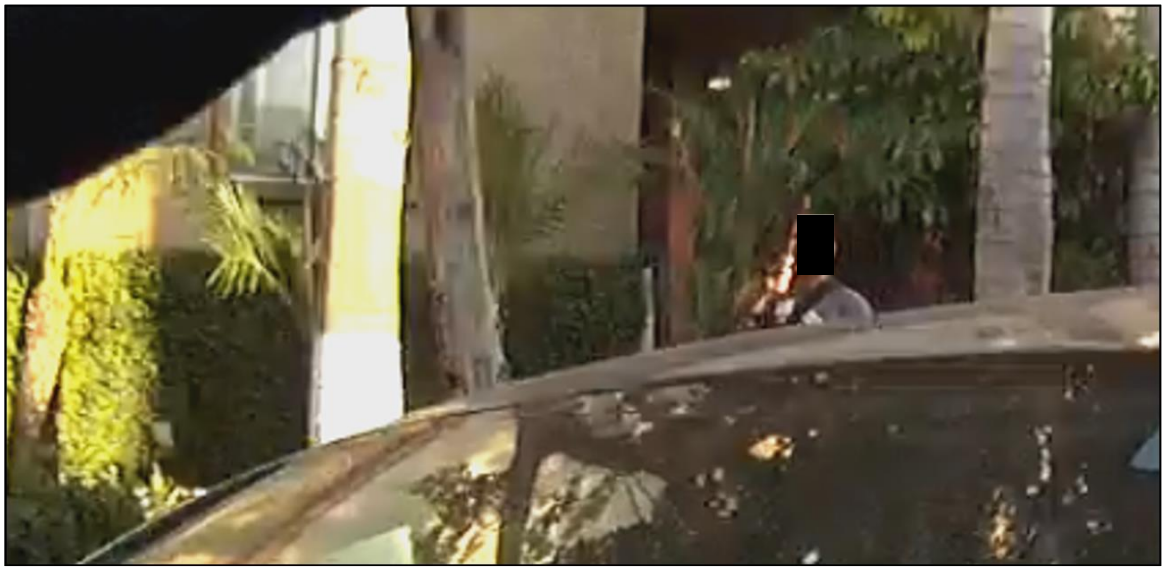

Figure 4 – Still image taken from Ponce's BWV depicting Alamillo pointing a handgun at Ponce.

Officers Hernandez, Gomez, Medrano, Moreno, Ramirez, Ponce, Casasola, and Frazier fired their duty weapons at Alamillo, striking him numerous times.

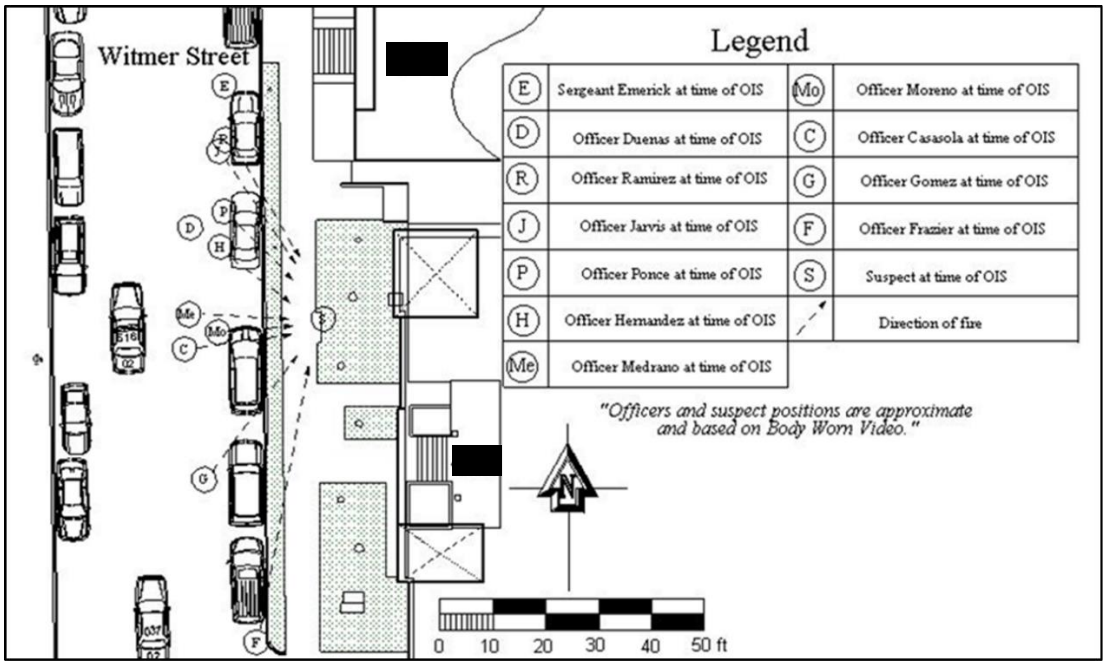

Figure 5 – LAPD map depicting the location of the officers and direction of fire during the incident.

As Alamillo was struck, he fell backward onto his back, landing on the grass and a small shrub. When Alamillo hit the ground, his right leg flew into the air, and his upper body continued to move. Simultaneously, Jarvis transitioned from his beanbag shotgun to his handgun and discharged two rounds at Alamillo. At 7:16:37 p.m., Alamillo appeared motionless on the ground. At 7:16:38 p.m., the last few rounds were fired at Alamillo.[7] Approximately three and a half seconds elapsed between the first shot fired at Alamillo and the last. Approximately one and a half seconds elapsed between Alamillo's final movements on the ground, as seen on BWV, and the last discharge by officers.[8]

Officer Medrano radioed that shots had been fired and requested that a rescue ambulance respond to the location. Officers then approached Alamillo, who was still holding the handgun in his right hand.

[7] LAPD analysis of the exact moment muzzle flashes can be seen on various BWV determined that Jarvis and Medrano fired their weapons after Alamillo had begun to fall to the ground or was on the ground. LAPD also determined that Frasier's final round was also fired after Alamillo was falling or on the ground.
[8] BWV is not an exact representation of an officer's point of view and does not necessarily represent what any officer can or did see at any particular moment.

Figure 6 – Still image taken from Duenas' BWV as he approached Alamillo after the officer-involved shooting.

Officer Duenas removed the firearm from Alamillo's hand, rolled him onto his stomach, and placed him in handcuffs. Los Angeles Fire Department Rescue Ambulance No. 11, staffed by Firefighter/Paramedics Wonmeen Jun and Jacob Dilbeck arrived at the scene at approximately 7:25 p.m. Alamillo was not breathing and had no pulse at the time of their arrival. Dilbeck pronounced Alamillo dead at 7:35 p.m.

Autopsy

An autopsy was performed on July 3, 2017, by Deputy Medical Examiner Timothy F. Dutra. The cause of death was determined to be gunshot wounds to the head and torso. Alamillo sustained fourteen entrance gunshot wounds to the head (1), chest (5), abdomen (3), buttock (1), right arm (1), right thigh (1), left calf (1), and left ankle (1).[9] He also sustained one grazing gunshot wound to his right calf and five beanbag wounds. Eight bullets and multiple bullet fragments were recovered from Alamillo's body during the autopsy and preserved for ballistics testing. Toxicology results indicated the presence of alcohol, marijuana, amphetamine, and methamphetamine in Alamillo's blood at the time of the incident.

Ballistics Evidence

Alamillo's .45 caliber, Springfield Armory, model 1911-A1 semiautomatic handgun was recovered from the scene. At the time of the incident, the firearm was loaded with one round in the chamber and four rounds in the magazine. The hammer was cocked, and the safety was off. The investigation determined Alamillo did not fire his weapon.

Forty-five cartridge casings were discharged from nine officers' duty weapons and recovered from the scene. Ten of the casings headstamped "WIN 9mm LUGER" were discharged from Ponce's 9mm Luger caliber, Smith & Wesson, model M&P9 duty weapon. Three of the casings headstamped "WIN 9mm LUGER" were discharged from Medrano's 9mm Luger caliber, Glock, model 17 duty weapon. Two of the casings headstamped "WIN 9mm LUGER" were discharged from Jarvis' 9mm Luger caliber, Smith & Wesson, model M&P9 duty weapon. Six of the casings headstamped "WIN 40 S&W" were discharged from Gomez' 40 S&W caliber, Glock, model 22 duty weapon. Six of the casings headstamped "WIN 9mm LUGER" were discharged

[9] Doctor Dutra did not specify which injuries were non-fatal and which were fatal.

from Casasola's 40 S&W caliber, Glock, model 22 duty weapon. Seven casings headstamped "FEDERAL 45 AUTO" were discharged from Moreno's 45 Auto caliber, Glock, model 21Gen4 duty weapon. Five casings headstamped "FEDERAL 45 AUTO" were fired from Hernandez' 45 Auto caliber, Smith & Wesson, model M&P 45 duty weapon. Two casings headstamped "FEDERAL 45 AUTO" were discharged from Ramirez' 45 Auto caliber, Smith & Wesson, model 4563TSW duty weapon. Two casings headstamped "⊕ WCC 11," one headstamped "⊕ WCC 12," and one headstamped "⊕ WCC 13" were fired from Frazier's 45 mm caliber, Colt, model M-16A1 LAPD rifle. Six discharged beanbag shotshells were also recovered from the scene.

Investigators observed multiple bullet impacts and strike marks on various vehicles, trees, and objects in the area where the incident occurred.

Non-shooting Officer Statements

Officer Duenas

Ponce and Duenas responded to a request for backup from the station. When Duenas arrived, he saw Hernandez and Gomez with their guns drawn and Alamillo with his hand in a backpack. Duenas could not understand what Alamillo said, but he was acting "aggressive toward the officers." Duenas drew his Taser, and Jarvis arrived with a beanbag shotgun. At that time, Alamillo pulled a stainless-steel semiautomatic handgun from his backpack and pointed it at his head. Duenas transitioned to his duty weapon and took cover behind a vehicle. Three to four beanbag rounds were discharged at Alamillo, which had "no effect whatsoever."

Alamillo began walking south, and Duenas yelled, "One shooter. One shooter. One shooter." According to Duenas, he was trying to take control of the incident and avoid multiple shooters. However, "The airship was low. Everybody is yelling at the suspect. I was trying to talk to—I was trying to talk to the officers, but I don't think nobody—I think we're all focused on the suspect more than paying attention to each other." As Alamillo walked south, multiple officers yelled, "Drop the gun!" but Alamillo did not comply. Duenas explained what happened next:

> [Alamillo] stopped, turned, and faced us, and at that moment he pointed his gun at us.[10] And I was mid-step, unable to get a good shooting—shooting stance. And when he pointed the—his gun at us I—what's it called, I went down to a low ready and crouched behind a black vehicle due to the fact that I wasn't able to get a good—good sight alignment on the suspect. And there was numerous officers around me that were—and I believe had a better sight on the suspect and shooting stance. And an officer-involved shooting occurred between numerous officers.

When Duenas looked up from behind the vehicle, Alamillo was lying on the ground, and Duenas approached Alamillo and handcuffed him. Based on the injuries he observed and the fact that there were no signs of life, he believed Alamillo was already deceased.

[10] Duenas later clarified that Alamillo pointed the firearm directly at him, Ponce, and Hernandez. Duenas did not mention the second set of beanbags discharged at Alamillo prior to him pointing his firearm at the officers.

Additional Officers Interviewed

Numerous LAPD officers were interviewed regarding the incident. The few that were present during the officer-involved shooting made statements that were generally consistent with the BWV and Duenas. The majority of the non-shooting officers interviewed arrived after the officer-involved shooting occurred.

Witness Statements[11]

[redacted].

[redacted]. described Alamillo as a "friend." [redacted]. was outside when he walked past Alamillo, who had his hand in a backpack. Hernandez and another officer [redacted]. did not recognize arrived at the location. The officers told Alamillo to stop, turn around, and take his hand out of his backpack. Alamillo stopped walking but refused to remove his hand from the backpack. When Alamillo eventually removed his hand, he was holding a chrome handgun that he then put to his head. The officers drew their firearms and told Alamillo to drop his gun. When he refused, the officers shot four to six rounds at Alamillo but did not strike him.[12] Alamillo continued to walk with the firearm pointed at his own head. Two more officers arrived at the location, and all four officers "opened fire" at Alamillo's back. [redacted] was unsure how many rounds struck Alamillo. Alamillo fell to the ground face-down, and the officers then tased him. Alamillo was then handcuffed. According to [redacted], Alamillo never pointed the handgun he was holding at the officers.[13]

[redacted].

[redacted]. was in his apartment when he saw two police officers with their guns drawn and Alamillo with his hand in a backpack. Alamillo and the officers were arguing, but he could not hear what was being said. Two more officers arrived, and he saw Alamillo with a gun in his hand. Alamillo put the gun to his head, and additional officers arrived at the scene. Alamillo walked south on Witmer Street, and [redacted]'s view of Alamillo became blocked by a tree. He then heard gunshots.

Additional Witness Statements

LAPD investigators interviewed additional witnesses; however, none reported seeing Alamillo's actions immediately preceding the officers discharging their weapons.

[11] All witness interviews were recorded.
[12] Investigators asked [redacted]. if these shots were from a shotgun, referring to Jarvis' first discharge of the beanbag shotgun. [redacted]. stated they were not rubber bullets or a Taser but the officers' duty weapons. Subsequent investigation, physical evidence recovered, and BWV established this did not happen.
[13] Many of [redacted]s statements describing the incident are contradicted by the existing video evidence.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id*. A prior threat or harm to the person or others can be considered when determining whether a person's conduct and beliefs were reasonable. *Id*. The People have the burden of proving beyond a reasonable doubt that the person did not act in lawful self-defense or the defense of another. *Id*.

Under California law on the date of this incident, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer's use of force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. The evaluation of reasonableness should look to "the facts and circumstances of each case, including the severity of the crime, the threat posed by the suspect, and whether the suspect is resisting or attempting to evade arrest." *Graham v. Connor* (1989) 490 U.S. 386, 396. "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 split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Id*. at 396-397.

In the instant matter, officers repeatedly ordered Alamillo to drop his handgun after he pulled it out of his backpack and pointed it at his head. Alamillo refused, and in an attempt to get him to drop the firearm, officers discharged less lethal beanbag rounds that struck Alamillo but had no effect. Alamillo yelled at the officers, appeared upset, and continued brandishing the firearm as he walked down a residential street. After Alamillo ignored further orders to drop the firearm, officers again attempted to employ less than lethal force by striking him with additional beanbag rounds. Alamillo responded by pointing his firearm at the officers and putting their lives in imminent danger. The officers responded by discharging their duty weapons in self-defense and in the defense of others. The officers discharged a total of 45 rounds, an alarming number when considered without context. However, the evidence established that nine separate officers simultaneously reacted to Alamillo with deadly force, and all rounds were discharged within three and a half seconds of Alamillo pointing his firearm at the officers, with a large majority of the rounds being fired within the first two seconds.

This matter was reviewed by the Chief of LAPD, the Inspector General for LAPD, and the Los Angeles Police Commission. In their reviews, each entity found some or all of the officers to be out of policy in the areas of tactics and or the lethal use of force. Each of their findings are based upon a different legal standard of proof than that required to file and prove criminal charges and are not dispositive to the determination of whether criminal charges should be filed.

With respect to the use of lethal force, all three investigations determined that Medrano, Frazier, and Jarvis' use of lethal force was outside of policy. These findings were based upon still shots taken from BWV at the exact moment each fired shots, based upon the appearance of muzzle flash. In these photographs, several shots appear to have been fired after Alamillo was falling or had fallen to the ground. Although these photographs were given great weight in the administrative determination, they are less persuasive in the evaluation of whether the officers' conduct was unlawful.

Each shooting officer was placed in a situation where his attention was divided between the potential threat Alamillo posed and the chaos of the scene, which included other officers firing their weapons and issuing commands, bystanders, an air support helicopter overhead, and multiple patrol vehicles and officers. Additionally, Alamillo maintained possession of his firearm during the entire incident, even after he fell to the ground, extending the period in which he could reasonably be viewed as a threat. Furthermore, the end of a threat and an officer's reactions are not instantaneous. The officer must perceive the end of the threat, mentally process that information, and stop pulling the trigger.[14] Therefore, while such conduct may violate internal policies, it is insufficient to prove beyond a reasonable doubt that the discharges by Hernandez, Gomez, Medrano, Moreno, Ponce, Ramirez, Jarvis, Casasola, or Frazier were unlawful.

CONCLUSION

We conclude that there is insufficient evidence to prove beyond a reasonable doubt that Officers Hernandez, Gomez, Medrano, Moreno, Ponce, Ramirez, Jarvis, Casasola, and Frazier did not act lawfully in self-defense and the defense of others when they used deadly force against Samuel Alamillo.

[14] The process of perceiving and reacting is referred to as response time. Response time includes receipt of information (perception), mental processing, performing a response, and device time. Balakrishnan, G., Uppinakudru, U., Singh, G.G., Bangera, S., Raghavendra, A.D., Thangavel, D. (2014) *A Comparative Study on Visual Choice Reaction Time for Different Colors in Females.* Neurol. Res. Int. 2014, 1–5.