

Officer Involved Shooting of Raul Martinez
Los Angeles Police Department

**Officer Aaron Harrington, #41254, Officer Brett Populorum, #41481,
Officer Lester Castillo, #39689, Officer Anthony Hugoboom, #41159,
Officer Nathan Brown, #37323, Officer Salvador Torres, #39671**

J.S.I.D. File #15-0307



JACKIE LACEY

District Attorney

Justice System Integrity Division

March 7, 2017

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
 Los Angeles Police Department
 Force Investigation Division
 100 W. First Street, Suite 431
 Los Angeles, California 90012

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

SUBJECT: Officer Involved Shooting of Raul Martinez
 J.S.I.D. File #15-0307
 L.A.PD. File #F048-15

DATE: March 7, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 19, 2015, non-fatal shooting of Raul Martinez by Los Angeles Police Department (LAPD) Officers Aaron Harrington, Brett Populorum, Lester Castillo, Anthony Hugoboom, Nathan Brown, and Salvador Torres. It is the conclusion of this office that Officers Harrington, Populorum, Castillo, Hugoboom, Brown, and Torres acted lawfully under the circumstances.

The District Attorney's Command Center was notified of the shooting on June 19, 2015 at approximately 5:30 a.m. The District Attorney Response Team responded and was given a walk-through of the scene.

The following analysis is based on investigative reports and witness statements taken during the investigation by the LAPD Force Investigation Division and submitted to this office by Detective John Simmons. The reports also include photographs, video recordings, and radio communications recordings. Compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On June 19, 2015 at approximately 1:05 a.m., Southeast Patrol Division Officers Brett Populorum and Aaron Harrington responded to [REDACTED], in the City of Los Angeles, for a domestic violence call. Populorum and Harrington spoke with [REDACTED], the victim, who informed them she was strangled by her husband, Raul Martinez.¹ The officers observed visible scratches and finger imprints on [REDACTED]' neck. [REDACTED] informed the officers that Martinez was possibly under the influence of methamphetamine. As the officers were conducting their investigation, Martinez walked through the courtyard and exited the front doors of the apartment

¹ [REDACTED]' neighbor, [REDACTED], called 9-1-1.

complex. The officers ran after Martinez and followed him onto the street, where they observed him enter [REDACTED] white 2004 Toyota Sienna van and drive off.²

Populorum and Harrington went in pursuit of Martinez.³ As Martinez drove south on Firth Boulevard and turned onto 96th Street, the officers lost sight of the van. After conducting an area check, the officers located the unoccupied van parked on 96th Street. The officers were searching the area for Martinez, on foot, when they observed him hiding between cars at the curb. Martinez was able to re-enter the van and proceeded onto Central Avenue.⁴ The officers attempted to initiate a traffic stop, but Martinez refused to stop.

Officers Joseph Chavez and Jacob Rice then joined the pursuit as the secondary unit. Sergeant Shannon Enox also responded from Southeast Patrol Division and became the incident commander. The ensuing pursuit lasted approximately two hours prior to terminating in the City of El Monte, and covered approximately 47 miles at an average speed of 23 miles per hour.⁵ During the pursuit, Martinez committed numerous traffic violations, including driving through numerous red lights and stop signs, and driving on the wrong side of the road.⁶

At one point during the pursuit, Martinez called 9-1-1 and stated he had a gun on his lap, and wanted to tell everyone that he loved them.⁷ Communications Division advised the pursuing units that Martinez was possibly suicidal, and was accelerating his suicidal behavior.⁸ Upon learning that Martinez was armed with a firearm, Enox discontinued the tracking of the van and directed Populorum and Harrington to re-engage the pursuit.⁹ Enox also requested a third unit to join the pursuit, at which point Officers Salvador Torres and Lester Castillo joined the pursuit.

As Martinez was driving on Rosecrans Avenue from Budlong Street, Harrington observed that Martinez had a gun in his hand and appeared to be holding it to his head as well as out the window.¹⁰ When Enox requested a police rifle or slug shotgun unit, Officers Nathan Brown and Mario Silva joined in the pursuit.¹¹ Martinez continued northbound on Atlantic Street, and then

² The van was registered to [REDACTED] and was taken by Martinez without her consent. As Martinez drove off, the officers observed that the left rear tire was flat. [REDACTED] subsequently stated that she had asked some young men in the complex to flatten the van's tires to prevent Martinez from fleeing in it.

³ Officers Victor Villanueva and Alejandro De La Torre remained at the scene to interview [REDACTED]. Villanueva and De La Torre completed a related domestic violence incident report for [REDACTED].

⁴ As Martinez turned west onto Manchester Avenue from Central Avenue, the van lost its left rear tire.

⁵ Prior to the van driving across a tire deflation device and becoming severely disabled, Martinez was able to reach speeds of approximately 45 miles per hour.

⁶ Radio frequency communications show that Martinez drove through 11 red traffic lights, and possibly more.

⁷ The investigation subsequently determined that Martinez was armed with a black Crossman 4.5 caliber, Model Phantom, CO2 BB gun, which resembled a black semi-automatic handgun.

⁸ California Highway Patrol dispatchers spoke to Martinez on his cell phone at various times during the pursuit and relayed the information to Communications Division. During an exchange with the 9-1-1 operator, Martinez is emotional and cries as he states he does not want to go to jail. Martinez states, "I'm like suicidal right now" while stating that he has a gun on his lap. Although the 9-1-1 operator pleads with Martinez to pull over, Martinez responds that he "can't do that", but adds that he does not want to hurt anybody but himself.

⁹ During "tracking" mode, the pursuing units backed off from Martinez and relied on the air unit's broadcast for Martinez's direction. Tracking mode was initiated in an effort to have Martinez slow down his vehicle as the manner in which he was driving was posing a significant risk to the public.

¹⁰ Video footage obtained from www.loudlabs.com, a video website dedicated to newsworthy police events, depicts Martinez holding the gun as described by Harrington. Further, video footage obtained from television station KVEA depicts a male civilian in a car yelling at Martinez to stop, and Martinez responds by pointing the gun at the civilian and continuing to flee.

¹¹ Brown had his Department authorized shotgun in the vehicle's trunk.

south on Compton Boulevard. About one hour into the pursuit, Martinez stopped his van outside his residence at 9315 Firth Boulevard. Martinez remained in the van for approximately 20 seconds before continuing on Firth Boulevard. Martinez drove through several red traffic lights before turning east on Imperial Highway. Once the pursuit was far enough out of the City of Los Angeles, additional officers responded to the pursuit.¹²

Martinez drove to the City of El Monte and momentarily stopped his vehicle outside of [REDACTED].¹³ Rice gave Martinez numerous commands to drop his weapon and come out of the van, but Martinez remained sitting in his van for approximately three minutes before continuing to drive north on Cogswell Road. The officers reentered their vehicles and resumed the pursuit. Martinez came to another stop outside 2603 Cogswell Road. The officers again exited their vehicles and Rice again gave Martinez commands to surrender. After approximately 40 seconds, Martinez exited the van holding a handgun, and placed it in his waistband as he walked towards the rear of the van.¹⁴ Chavez fired beanbag rounds at Martinez which struck him, but were ineffective in deterring Martinez.

Martinez then walked back toward the driver's door, turned away from the officers, reached in, and turned abruptly while pointing a dark object at the officers.¹⁵ Harrington, who was providing lethal cover, fired two rounds in rapid succession at Martinez, missing him.¹⁶ Martinez was able to reenter the van, and continued driving north onto Cogswell Road. Officers attempted to stop Martinez by deploying a tire deflation device on Cogswell Road. Although Martinez drove over the device, further disabling the van, Martinez continued driving at slow speeds on the wheel rims of the van.¹⁷

Martinez drove onto Mountain View Road and turned west onto Valley Boulevard. After fleeing from the pursuing officers for approximately 30 more minutes, Martinez made a U-turn coming to a stop at 11851 Valley Boulevard in the City of El Monte.¹⁸ Several officers also came to a stop in their vehicles on the opposing traffic lane. Rice again gave Martinez commands to surrender. After approximately one minute, Martinez exited the van with a handgun in his left hand and a large piece of cloth in his right hand which was held over his head and draped in front of his left arm, concealing the handgun. Chavez fired three consecutive bean bag rounds, striking the cloth, but these proved ineffective. Martinez then lowered the cloth and raised his left arm, pointing the

¹² Nine additional officers responded at this time, among them Officer Anthony Hugoboom, who was one of the six officers who fired his weapon at Martinez at the termination of the pursuit.

¹³ Martinez's sister, [REDACTED], resided at [REDACTED].

¹⁴ At that point, several officers called out, "Gun!", alerting everyone that Martinez had a handgun.

¹⁵ The dark object was, in fact, a flashlight being operated in strobe mode.

¹⁶ Digital In-Car Video (DICV) footage from several of the officers' patrol cars captured this incident from slightly different angles, all from the rear of Martinez's van. Martinez is seen standing outside the open driver's side door of his van, turning away from the officers, and reaching down to his waistband. Martinez then quickly turns towards the officers while raising the flashlight (flashing a bright light) at the officers in a simulated shooting stance. It appears from the DICV footage that but for Brown, Chavez, and Enox, the other officers were east of Harrington's vehicle and had their view of Martinez obstructed by the van, such that they were not able to observe Martinez draw and exhibit the flashlight like a firearm.

¹⁷ Martinez was now driving on the wheel rims of the van, with flames visible underneath the engine compartment of the van, and at a speed of approximately 15 mph.

¹⁸ Valley Boulevard is a four-lane roadway, with two lanes for eastbound traffic and two lanes for westbound traffic, with an additional center lane divided by double yellow lines functioning as a continuous turn lane. The officers and Martinez ended up on opposing lanes of traffic. However, because the officers' patrol vehicles were not directly facing Martinez's van, none of the officers' DICV cameras captured Martinez during this portion of the incident.

handgun directly at the officers which resulted in several officers firing their weapons at Martinez.¹⁹ Harrington fired two rounds at Martinez from a distance of approximately 50 feet while Populorum fired two rounds from a distance of approximately 57 feet.²⁰ Hugoboom fired eight rounds at Martinez from a distance of approximately 60 feet, Castillo fired three rounds at Martinez from a distance of approximately 58 feet, Torres fired two rounds from the shotgun at Martinez from a distance of approximately 46 feet, and Brown fired one slug round at Martinez from an approximate distance of 92 feet.

Martinez was struck by the officers' gunfire and fell down with his head facing in a northwesterly direction. However, Martinez still had the gun in his hand, and once again raised the gun and pointed it at the officers.²¹ This prompted Harrington to fire an additional two rounds and Hugoboom to fire an additional five more rounds at Martinez.²² After Martinez tossed his handgun forward away from him, the officers were finally able to take him into custody without further incident.²³

Martinez was transported to the Los Angeles County University of Southern California Medical Center (LAC-USCMC) for medical treatment. Martinez sustained multiple gunshot wounds to his left torso, arm and leg.²⁴

During a search of the area, Martinez's replica firearm was recovered in the roadway at 11851 Valley Boulevard.

¹⁹ A total of six officers fired their weapons at Martinez. Video footage from KTLA captured Martinez's actions following his exit from his vehicle. Martinez is seen exiting the van with a cloth over his head and hands as he is being struck with bean bag rounds. Martinez then reaches out with his left hand and points the gun directly at the officers prompting the officers to immediately begin shooting at him. The video footage clearly depicts Martinez pointing the gun in the direction of the officers. The footage obtained from KTLA is 24 seconds long, and stops once officers begin firing at Martinez. The footage does not show Martinez falling to the ground or his actions on the ground after that.

²⁰ Although Harrington and Populorum's actions, including the shots fired, were captured by DICV, Martinez himself is not visible in any of the DICV footage obtained from the patrol vehicles during the incident on Valley Boulevard.

²¹ There is no video footage of Martinez pointing the gun at officers while on the ground. However, video footage obtained from www.loudlabs.com does appear to depict Martinez immediately following the second volley of gunfire. This video footage shows Martinez laying on the ground, his hands near his head area, with the gun under his right hand. Martinez appears to have a bleeding gunshot wound to his left shoulder. After a few seconds, Martinez tosses the gun forward away from him, and the officers descend upon him and take him into custody.

²² There was approximately a 12 second delay between the first and second round of fire, during which numerous commands were given to Martinez to drop the gun. The first volley of gunshots lasted approximately 4-5 seconds, and the second volley lasted approximately 2-3 seconds.

²³ As a result of his actions on this date, Martinez was charged with violations of Penal Code section 273.5, corporal injury to a spouse, Vehicle Code section 2800.2, recklessly evading a peace officer, Penal Code section 69, resisting a peace officer, and Penal Code section 417.4, brandishing a replica firearm, in court case #TA137510. On January 27, 2016, pursuant to a negotiated disposition, Martinez was convicted of a felony violation of Penal Code section 273.5 and a felony violation of Vehicle Code section 2800.2, and was sentenced to four years state prison.

²⁴ [REDACTED]

[REDACTED] Martinez was also unable to provide this information to investigators. No bullet impacts were observed on the van.

Statement of [REDACTED]

[REDACTED] is married to Martinez, and they have three children in common. [REDACTED] has been the victim of domestic violence by Martinez on one prior occasion. About four years ago, Martinez tightly squeezed [REDACTED]' neck, almost rendering her unconscious. Martinez is a methamphetamine user. He had been using crystal methamphetamine, on and off, every 2 to 6 months leading up to the date of the incident. Recently, Martinez had been using drugs more frequently. Martinez has an anger problem, and had been really depressed just prior to the incident.

On the date of the incident, Martinez came home really mad and aggressive. They had been arguing because Martinez had accused her of seeing other people. [REDACTED] directed her children to go to her neighbor, [REDACTED], apartment. Martinez yelled at [REDACTED] and threw a cell phone at her, striking her on the shoulder. Martinez then began pushing [REDACTED] on the chest, and when [REDACTED] pushed him back, Martinez grabbed her firmly around the neck. [REDACTED] became fearful for her safety and was able to break away from Martinez's grasp, but felt nauseated and in fear because Martinez had previously threatened to take their two-year old son from her. As [REDACTED] walked towards [REDACTED]'s apartment, Martinez followed her yelling and swearing at her the entire time. [REDACTED] hid inside [REDACTED] apartment until the officers arrived and Martinez fled in her van.

[REDACTED] knew Martinez to have a BB gun that looked real.

Statement of [REDACTED]

[REDACTED] is [REDACTED]' neighbor and a mutual friend of Martinez and [REDACTED]. [REDACTED] described Martinez as jealous, possessive, and hooked on methamphetamine. [REDACTED] spoke with Martinez over the telephone earlier in the day, the day of the incident, and noted he appeared to be under the influence of a controlled substance.

Later that evening, [REDACTED]' children came to her door, she allowed them inside and then walked [REDACTED] towards her apartment. [REDACTED] then observed [REDACTED] and Martinez arguing in the courtyard of the apartment complex. [REDACTED] escorted [REDACTED] back to her apartment and called 9-1-1. [REDACTED] observed reddish marks on [REDACTED]' neck, as if somebody had grabbed her. Martinez began banging on [REDACTED] door, and [REDACTED] went outside to calm him down. When Martinez threatened to leave in [REDACTED]' van, [REDACTED] directed some young men in the building to puncture the tires on the van to prevent Martinez from fleeing in [REDACTED]' van.

Shortly thereafter, police officers arrived at the scene. When Martinez observed the officers, he fled on foot towards the parking lot. [REDACTED] directed the officers to Martinez.

Statement of Raul Martinez

Martinez was interviewed by Detectives John Simmons and Francisco Alvelais while still hospitalized at the LAC-USCMC on June 29, 2015, after waiving his *Miranda* rights.²⁵ Martinez denied assaulting [REDACTED], but stated he "panicked" and fled due to the fact that he was on a "five-

²⁵ Martinez requested to speak with Force Investigation detectives.

year joint suspended sentence” at the time.²⁶ Martinez also denied using methamphetamine or alcohol on the date of the incident, stating that he was completely sober that day.²⁷ Although Martinez acknowledged hearing the officers ordering him to stop and pull over, and seeing the officers’ lights and sirens, he did not pull over because he did not know what to do.

Martinez admitted that he had a BB gun that looked real, and that he was holding the gun up. Martinez stated, “I will admit that I was trying to do suicide by cop.”²⁸ Martinez admitted to taunting the officers by waving his flashlight and telling them to shoot him in the face.

At the termination of the pursuit on Valley Boulevard, Martinez recalled getting out of the van holding the gun in his right hand, and a blanket in his left hand. Martinez heard commands to get down and put his hands behind his back. Martinez did not recall if he actually pointed the gun at the officers at that time, but admitted he hid under the blanket, “So you guys can think I was hiding it [the gun] and pointing it at you.”²⁹ Martinez stated that his intent was to make the officers believe he was going to hurt them, so they would shoot him but his intent was not to hurt the officers.

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 §835a.

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he 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 police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death. *Scott v. Harris* (2007) 550 U.S. 372; *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012, 2021. Further, if officers are justified in firing at a suspect in order to end a severe threat to public safety, they need not stop shooting until the threat has ended. *Plumhoff* at 2022.

²⁶ Martinez mainly has misdemeanor convictions dating back to 2001. However, at the time of this incident Martinez was on formal probation for robbery, a felony in violation of Penal Code section 211, in court case #KA095985.

²⁷ [REDACTED]

²⁸ Martinez stated, “I was kind of hoping a police officer would shoot me... I had a gun, I didn’t want to live.”

²⁹ The video footage obtained from KTLA clearly shows Ramirez pointing the gun in the officers’ direction, as previously described in footnote 19.

A reasonable belief that danger exists may be formed by reliance on appearances. *Davis v. Freels* (7th Cir. 1978) 583 F.2d 337, 341. No right is guaranteed by federal law that one will be free from circumstances where he will be endangered by the misinterpretation of his acts. *Sherrod v. Berry* (7th Cir. 1988) 856 F.2d 802, 805 (quoting *Young v. City of Killen, Tx.* (5th Cir. 1985) 775 F.2d 1349 at 1353).

In determining the reasonableness of an officer's actions, allowances must be made 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. *Graham v. Connor* (1989) 490 U.S. 386, 396-398.

The evidence examined in this investigation shows that Martinez assaulted his wife by strangling her, and when officers attempted to arrest him for the assault, Martinez fled. Martinez then engaged officers in a dangerous two-hour pursuit that spanned several miles and included numerous traffic violations by Martinez. Martinez drove through more than ten red traffic lights in his attempt to evade the pursuing officers. Numerous times throughout the pursuit Martinez was given orders to stop and surrender himself, all to no avail.

The evidence examined further shows that Martinez purposely armed himself with a replica firearm, and deliberately used it to place the officers and public at large in fear for their safety. During the pursuit, Martinez purposefully displayed a handgun in his waistband and followed that with a shooting stance while holding a black flashlight. Having just seen a handgun in Martinez' waistband, it was reasonable for Officer Harrington to believe at the time he fired his weapon, missing Martinez, that Martinez was about to shoot him or the other officers. As a matter of fact, that was exactly what Martinez intended- to put the officers in fear for their safety.

At the conclusion of the pursuit, Martinez exited his van, and despite being given numerous commands to drop the handgun and surrender, Martinez pointed his handgun at the officers placing them in immediate fear for their safety and causing them to respond appropriately with deadly force. Further, the evidence examined shows that, once on the ground, Martinez continued to point his handgun at the officers triggering a second round of gunfire on the officers' part.

Although Martinez ultimately claimed he had no intent to hurt the officers, his actions were designed to convey an intent to do just that. Martinez's gun looked like a real gun, Martinez told the 9-1-1 dispatcher that he had a gun, and Martinez manipulated his gun as if it were a real gun. Hence, there was no reason why any of the officers involved would have reason to believe that the handgun Martinez displayed was anything but a real gun. Therefore, their actions in responding to this perceived threat were reasonable.

CONCLUSION

Based on the foregoing, we conclude that Officers Aaron Harrington, Brett Populorum, Lester Castillo, Anthony Hugoboom, Nathan Brown, and Salvador Torres acted reasonably and lawfully in self-defense and in defense of others when they used deadly force against Raul Martinez. We are therefore closing our file and will take no further action in this matter.