

Officer Involved Shooting of Juan Chavez

Los Angeles Police Department

Officer Fernando Flores, #30823

Officer Alfredo Aguayo, #35749

J.S.I.D. File #13-0495



JACKIE LACEY

District Attorney

Justice System Integrity Division

April 12, 2017

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
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: Officer Involved Shooting of Juan Chavez
J.S.I.D. File #13-0495
F.I.D. File #F061-13

DATE: April 12, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 16, 2013, fatal shooting of Juan Chavez by Los Angeles Police Department (LAPD) Officers Fernando Flores and Alfredo Aguayo. It is our conclusion that Officers Flores and Aguayo acted in lawful self-defense and defense of others at the time they fired their weapons.

The District Attorney's Command Center was notified of this shooting on July 16, 2013, at approximately 9:20 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by the LAPD, Force Investigation Division (FID).

The following analysis is based on reports, recorded interview transcripts, video recordings, and photographs submitted to this office by FID. The departmentally compelled statements of Officers Flores and Aguayo were considered in this analysis.

FACTUAL ANALYSIS

On July 16, 2013, LAPD Gang Impact Team (GIT) Homeland Security Investigations (HSI) Task Force Officer Fernando Flores and Gang Enforcement Detail (GED) Officer Alfredo Aguayo were assigned to monitor a vigil for a deceased 18th Street gang member. Both officers were dressed in plain clothes and were in an undercover vehicle. Flores was the driver and Aguayo was seated in the right front passenger's seat. They were joined in this assignment by LAPD Officers Carlos Carias and Jose Sanchez, who were also in plain clothes and in another undercover vehicle. A single chase unit was designated to assist the two undercover units should it become necessary. The objective of this assignment was to identify members of the 18th Street criminal street gang.

The vigil was held at a storefront church located at [REDACTED] West Pico Boulevard in Los Angeles. At approximately 8:00 p.m., Flores and Aguayo parked their undercover vehicle on the north side of West Pico Boulevard, east of the target location. From their vantage point, the officers could see the front of the church, located south and west of their location. [REDACTED]

At approximately 8:50 p.m., a man, later identified as Juan Chavez, [REDACTED] proceeded eastbound on the north sidewalk, heading toward the officers.¹ Chavez was holding a baseball cap in his left hand. As he walked along the passenger's side of the officers' vehicle, Chavez turned his head to the right and looked into the officers' car.² As Chavez walked past the rear quarter panel, he reached his right hand into the front area of his waistband, turned to face south and stepped backward. As he stepped back, Chavez bent forward and looked into the passenger's side window of the officers' car. [REDACTED]

Both officers [REDACTED] opened their car doors [REDACTED] Chavez stepped back. [REDACTED] Flores dropped down to his knee, taking cover behind the side of his car briefly, and then stood and fired several more shots.

Chavez fell [REDACTED] As he fell, he dropped the revolver. [REDACTED] Aguayo broadcast a help call, indicating that shots had been fired. The officers' attention remained divided between Chavez and the front of the church until chase Officers Raymond Flores and Richard Meza arrive at the location.⁴

Several individuals who had been in front of the church fled the location. However, there were still over 100 people inside the church who needed to be cleared. The process of clearing the church was lengthy and time consuming, and delayed paramedics from safely entering the scene. Due to tactical concerns, paramedics were not permitted to enter the scene until 10:30 p.m. After assessing Chavez, paramedics pronounced him dead at 10:34 p.m.⁵

¹ [REDACTED]
² [REDACTED]
³ [REDACTED]
⁴ No physical evidence was recovered from the front of the church which would indicate shots had been fired from that location.
⁵ At approximately 9:06 p.m., several officers approached Chavez, who had not yet been searched or handcuffed. Officer Jose Sanchez checked Chavez' wrist and determined that he did not have a pulse.

A surveillance camera system for the business located at [REDACTED] West Pico Boulevard captured the officers' and some of Chavez' actions during the incident. One of the cameras was affixed to the exterior of the location 15 feet above ground level and faced southeast. This camera depicted most of the incident.⁶ A second camera was located inside the business. This camera faced south and recorded the interior of the business. This camera also provided a view of the area just outside the south facing window, where the officers' vehicle was parked. This camera captured the activity along the passenger's side of their car.

The exterior camera shows Chavez walking past the passenger's side of the officers' car holding a baseball cap in his left hand. As he passes the car, Chavez turns his head and appears to be looking inside the car. As he reaches the rear of passenger's side, Chavez slows his gate, reaches toward his waistband area with his right hand, steps back and bends forward, as if peering into the officers' car. As Chavez steps back, an awning obscures the view of his body with the exception of his feet.

Aguayo's car door cracks open, causing the interior light to illuminate. Aguayo exits the front passenger door, turns to face Chavez and begins to raise his duty weapon. Chavez walks east, out of the camera's view. Flores quickly exits the driver's side, raises his gun and both officers fire several rounds quickly. Chavez' hands can be seen briefly and depict Chavez holding two objects, one in each hand. Chavez falls backwards onto the sidewalk and his entire body is obscured by the awning. A puff of smoke, consistent with a gunshot, can be seen coming from Chavez' location. Flores briefly squats down. Flores stands and fires several additional rounds. The revolver is seen tumbling from Chavez' location, landing in the gutter.

Both officers stop firing and begin to approach Chavez. Immediately, their attention is directed west of their location. Both officers duck down and appear to be panicked. About one minute later, a marked black and white vehicle arrives at the scene.

The interior camera shows Chavez walking by the officers' car holding a hat in his left hand. As he arrives at the rear of the passenger's side, he reaches his right hand in the area of his waistband, bends forward and appears to be looking into the officers' car. His right arm is bent at the elbow. Chavez stands up and, as Aguayo's door begins to open, Chavez extends his right arm toward the officers' vehicle in a motion consistent with someone pointing a gun. Both officers exit and Chavez moves eastbound, out of the camera's view. Both officers fire their duty weapons.

Chavez was armed with a .357 Magnum Taurus revolver.⁷ The revolver was found in the gutter adjacent to the north sidewalk of West Pico Boulevard. The gun contained six spent casings. A bullet fragment located on the south sidewalk adjacent to 1810 Pico Boulevard was tested and determined to have been fired from Chavez' revolver.⁸ A single characteristic particle of gunshot residue was found on Chavez' right hand and many consistent particles of gunshot residue were detected on Chavez' right and left hands. The presence of gunshot residue on Chavez' hands

⁶ An awning located above the north sidewalk obstructed the camera's view of Chavez' actions during most of the incident.

⁷ The revolver was stolen from its owner in an auto burglary in 2008.

⁸ This round was discharged in a southwest direction.

indicates that he may have discharged a firearm or had his hands otherwise in an environment of gunshot residue.

Flores was armed with his department approved .40 caliber Smith & Wesson semiautomatic pistol. Aguayo was armed with his department approved .40 caliber Glock Model 22 semiautomatic pistol. A total of eighteen cartridge casings were recovered at the scene. An analysis of the officers' weapons and the casings located at the scene verified Flores fired his duty weapon eight times and Aguayo fired his duty weapon ten times.

On July 18, 2013, Los Angeles County Deputy Medical Examiner Lawrence Nguyen, M.D., performed an autopsy on Chavez' body. Chavez sustained seven gunshot wounds. Chavez suffered a single gunshot wound to the right flank, which traveled right to left and front to back. Two of the gunshot wounds were to Chavez' left shoulder and traveled left to right and slightly downward. One of the gunshot wounds was to Chavez' left upper shoulder. The direction of this wound was left to right, slightly back to front and downward. Two gunshot wounds were to Chavez' left upper back. The direction of these wounds was left to right, slightly back to front and slightly downward.⁹ Chavez also sustained a gunshot wound to his left calf, which traveled downward and back to front. Dr. Nguyen ascribed the cause of death as multiple gunshot wounds.

Chavez was 37 years old, weighed 205 pounds, and stood 5'9" tall. Chavez was a documented member of the 18th Street criminal street gang and had the word "eighteen" written across his back. [REDACTED]

CONCLUSION

“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.” Graham v. Connor (1989) 490 U.S. 386, 396-397.

According to the law in California, 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; (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505. The People have the burden of proving beyond a reasonable doubt that a person did not act in lawful self-defense or defense of another. If the People fail to meet this burden, a jury must find the defendant not guilty. CALCRIM No. 3470.

⁹ One of the gunshot wounds to the left upper back was immediately life threatening.

The evidence examined in this investigation shows that Officers Fernando Flores and Alfredo Aguayo were working in plain clothes in an undercover vehicle and assigned to monitor a vigil for an 18th Street gang member. As they watched the area, they saw Juan Chavez [REDACTED] proceed eastbound on the north sidewalk, heading in the officers' direction. As Chavez walked past their car, he looked in and reached for his waistband. The officers, [REDACTED] began to exit the car and draw their duty weapons. Chavez pulled a revolver from his waistband, pointed the gun in the officers' direction, and, at some point, fired his weapon. Flores and Aguayo, facing deadly force and reasonably in fear, fired their duty weapons at Chavez.

We conclude that Officers Fernando Flores and Alfredo Aguayo were placed in reasonable fear of death or great bodily injury by Juan Diaz Chavez' actions and acted lawfully in self-defense and defense of others at the time each fired his weapon. We are therefore closing our file and will take no further action in this matter.