

Officer Involved Shooting of Osvaldo Torres
South Gate Police Department

Officer Aaron Sosa, #10194

J.S.I.D. File #16-0100



JACKIE LACEY

District Attorney

Justice System Integrity Division

May 23, 2018

MEMORANDUM

TO: CHIEF RANDY DAVIS
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Osvaldo Torres
J.S.I.D. File #16-0100
S.G.P.D. File #1602633
L.A.S.D. File #016-00027-3199-013

DATE: May 23, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 6, 2016, fatal shooting of Osvaldo Torres by South Gate Police Department (SGPD) Officer Aaron Sosa. It is our conclusion that Officer Sosa acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting on March 6, 2016, at approximately 3:05 a.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on reports submitted to this office by Los Angeles County Sheriff's Department (LASD) Homicide Bureau Detectives Fredrick Morse and Dave Gunner. Officer Sosa provided a voluntary statement which was considered as part of this analysis.

FACTUAL ANALYSIS

On March 6, 2016, at approximately 1:32 a.m., SGPD Officers Byron Austin and Brian Padilla were on uniformed patrol in a marked black and white patrol vehicle when they observed a white Chevrolet Impala fail to stop for a stop sign eastbound on Tweedy Boulevard in the City of South Gate. Padilla activated the patrol vehicle's overhead red and blue lights and siren and

initiated a traffic stop. The Impala failed to yield and a pursuit ensued. During the pursuit, the Impala ran a red light and accelerated to speeds of 100 miles per hour. The pursuit was terminated due to the dangerous speeds and rainy weather. The Impala continued eastbound on Tweedy Boulevard at a high rate of speed.

Uniformed SGPD Police Officer Aaron Sosa heard Padilla and Austin broadcast the pursuit over the radio and headed toward the area to assist the officers. Sosa was southbound on Atlantic Avenue, north of Tweedy Boulevard, when the pursuit was cancelled. Shortly thereafter, Sosa observed the Impala cross Atlantic Boulevard at a high rate of speed. Sosa was aware that Tweedy Boulevard came to a dead-end east of Atlantic Avenue at Burtis Street and the Los Angeles River.¹ Sosa followed the Impala east onto Tweedy Boulevard and observed that it had crashed into a concrete barrier at the end of the street. He also observed two individuals, later identified as Osvaldo Torres and Roman Rosales, running southbound from the vehicle. Sosa stopped his patrol vehicle behind the abandoned Impala and chased the men on foot.

Torres and Rosales ran up an access road leading to a bike path that runs along the top of the river embankment. A four-foot wall separates the bike path from the embankment. Sosa identified himself as a police officer and ordered the men to stop. Rosales, who was five feet behind Torres, turned around and put his hands in the air. Sosa ordered Rosales to his knees and then to the ground. Sosa forced Rosales to the ground when he refused to comply.



¹ Per Google maps, it is .4 miles from Atlantic Avenue to where Tweedy Boulevard ends at Burtis Street.



Crash site at the dead end. Access road in the background.



Looking north on the bike path. Crash site in the background.



Looking south on bike path and showing wall that separates it from the river and embankment

Meanwhile, Austin and Padilla heard Sosa broadcast that the Impala had crashed at Burtis Street and responded to the location. Austin observed Sosa chasing Torres and Rosales up the access road to the bike path. Padilla drove their patrol vehicle onto the bike path. They stopped and exited their vehicle. Padilla took Rosales into custody while Sosa continued after Torres. Torres had climbed over the four-foot wall onto the river embankment. When Sosa reached the wall, he observed that Torres had run down the embankment and was fleeing southbound in the river bed. Sosa jumped over the wall and followed Torres into the river bed. Sosa removed his service weapon from its holster. Austin followed slightly behind Sosa and Torres, but remained above them on the bike path.

Sosa again identified himself as a police officer and ordered Torres to stop multiple times. Torres ignored him. Sosa closed the distance to within 35 yards of Torres.² Sosa noticed Torres fumbling with something, but could not see what it was. Sosa told Torres to stop or he would shoot him. Torres turned around and “squared off” against Sosa. Sosa observed something in Torres’ hand when he illuminated him with the flashlight mounted onto his service weapon. Initially, Sosa thought Torres was pointing a flashlight in his direction. Sosa then heard two gunshots and saw one muzzle flash coming from the “flashlight.”³ Sosa realized that Torres was armed with a gun and shooting at him. In fear for his life, Sosa returned fire.

² Sosa estimated that Torres was 85 yards ahead of him when Sosa first went into the river bed.

³ Sosa told responding officers that Torres fired one to two shots at him.

Austin paralleled Sosa and Torres on the bike path for approximately 150 yards while using his radio to broadcast their location. Austin heard two gunshots and observed muzzle flash coming from the river bed. The direction of the muzzle flash indicated to Austin that the gun was being fired in a northerly direction. Austin could not see who was firing. Austin stopped running and observed Sosa firing his service weapon at Torres. Based on the sound of the gunfire, Austin believed that the first two shots came from a different gun than Sosa's service weapon.

Torres fell to ground and Sosa observed him waving the gun that was still in his hand.⁴ Sosa ordered Torres to drop the gun. Sosa fired additional rounds at Torres when he failed to comply. At that time, Sosa broadcast that shots had been fired and requested paramedics. Sosa approached Torres and observed a silver revolver near his hand. Sosa kicked the gun away from Torres.

Los Angeles County Fire Department personnel responded to the location and declared Torres deceased at the scene.

Sosa's Audio Recording

Sosa was wearing an audio recorder during the incident. The first 25 seconds of the recording captures Sosa's broadcasts regarding the traffic collision and the suspects running southbound on the bike path. The recording was inadvertently turned off at this time.⁵ The recording picks up again when Sosa is chasing Torres. The sound of Sosa running can be heard until approximately 0:54 seconds.

0:25: *The sound of Sosa running.*

0:28: Get over here!

0:36: Stop!

0:41: It's the police! Stop!

0:48: Stop!

0:50: You're gonna get shot! Stop!

0:54: You're gonna get shot! Sir!

0:55: *The sound of one gunshot immediately followed by four gunshots that sound different than the first.*

0:59: 43! Shots fired! Shots fired!⁶

1:02: *The sound of nine consecutive gunshots.*

1:13: Let it go, sir! *Immediately followed by the sound of four gunshots.*

1:21: *Sounds consistent with a magazine falling to the ground and a round being chambered during a reload.*

1:22: I'm code four! I'm code four! Stop! Let it go! *The sound of moaning can be heard in the background and continues until approximately 1:34.*

⁴ Sosa was not asked in what position Torres landed on the ground. Officers who responded immediately after the shooting indicated that Torres was lying on his back when they arrived at the scene. Torres head was pointed north and his feet pointed south.

⁵ Sosa stated that the recorder pauses if the record button is hit after being activated. Sosa originally activated his recorder after exiting his patrol vehicle. Sosa noticed that the recorder was no longer activated after climbing over the wall leading to the river bed. At that time, Sosa reactivated his recorder.

⁶ 43 is Sosa's call sign.

1:32: Don't reach for it! Stop! *Immediately followed by the sound of five gunshots.*

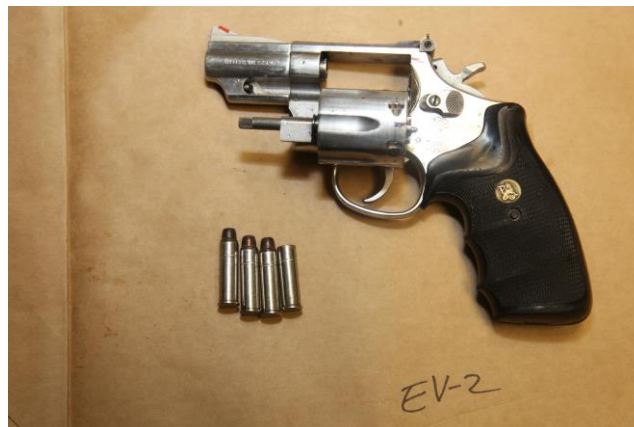
1:37: Stop!

1:52: 43. I'm code four. I got one subject down. Roll paramedic, please.

Ballistic Evidence

Due to the severe rain and rising water level in the river bed, ballistic evidence was recovered by officers before it could be documented by LASD crime scene investigators. Photographs of the ballistic evidence were taken by SGPD before it was removed from the river bed. Padilla recovered 17 fired cartridge cases 30 to 35 feet north from where Torres fell to the ground. Padilla also recovered an empty magazine 25 to 30 feet north of Torres. SGPD Officer Derrick Marin recovered five fired cartridge casings 15 to 20 feet north of Torres.

Torres' firearm was a stainless steel, six-shot, Smith and Wesson .357 Magnum revolver. It was loaded with three live rounds and one expended casing.



Autopsy Report

Los Angeles County Deputy Medical Examiner Ajay Panchal, M.D., performed a postmortem examination of Torres on March 9, 2016, and ascribed his death to multiple gunshot wounds. Four of the gunshot wounds were fatal. They were inflicted to the upper right torso, left chest, right torso and back of the head. The trajectory of the fatal head wound was from back to front and downward. The projectile was recovered within the skull base and soft tissue. No soot or stippling was located on Torres' body.⁷ Torres had a blood alcohol level of .08% and marijuana was in his system.

⁷ The location and trajectory of the fatal head wound and where the projectile was recovered is not inconsistent with Sosa firing at Torres while he was on the ground and waving his gun after being ordered to drop it. Torres fell with his head pointed toward Sosa, who was standing north of Torres. The lack of any soot or stippling on Torres' body and the location where the expended casings were recovered indicate that Sosa was a distance from Torres when he fired.

LEGAL ANALYSIS

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505*.

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 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.

Actual danger is not necessary to justify the use of force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon these circumstances. The right to self defense is the same whether the danger is real or apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577, 580.

The test of whether the officer’s actions were objectively reasonable is “highly deferential to the police officer’s need to protect himself and others.” *Munoz v. City of Union City* (2004) 120 Cal. App.4th 1077, 1102.

CONCLUSION

The evidence examined shows that Osvaldo Torres shot at Officer Sosa to evade capture. Although it is unclear whether Torres was driving, the vehicle he was in reached speeds of 100 miles per hour rather than yield to the police for running a stop sign. Torres and Rosales fled on foot after they crashed at the end of a dead-end street. Rosales surrendered to Sosa after a short pursuit, while Torres continued fleeing armed with a loaded .357 revolver. Torres ran up to the bike path adjacent to the Los Angeles River, jumped over a four-foot wall and into the river bed, ignoring Sosa’s multiple orders to stop. Torres, intent on escaping, turned toward Sosa and fired one round at the officer. In fear for his life, Sosa returned fire. Torres fell to the ground with the revolver in his hand. Torres waved the loaded gun and ignored Sosa’s commands to drop it. Although Torres was wounded and on the ground, he refused to drop his loaded firearm, and continued to pose a deadly threat to Sosa. Torres’ actions placed Sosa in reasonable fear for his life and he responded with reasonable deadly force.

We conclude that Officer Aaron Sosa acted in lawful self-defense when he used deadly force against Osvaldo Torres. We are therefore closing our file and will take no further action in this matter.