

Officer Involved Shooting of Roberto Rodriguez
Los Angeles Police Department

Officer Sergio Gramajo, #39927
Officer Michael Nguyen, #40649
Officer Hector Almeda, #39529
Officer Heriberto Crisantos Garcia, #39541

J.S.I.D. File #15-0173



JACKIE LACEY
District Attorney

Justice System Integrity Division
August 16, 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

RE: Officer Involved Shooting of Roberto Rodriguez
J.S.I.D. File #15-0173
L.A.P.D. DR #15-04-08539

DATE: August 16, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 8, 2015, fatal shooting of Roberto Rodriguez by Los Angeles Police Department (LAPD) Officers Sergio Gramajo, Michael Nguyen, Hector Almeda and Heriberto Crisantos Garcia. We have concluded that Officers Gramajo, Nguyen, Almeda and Crisantos Garcia acted lawfully in self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on April 8, 2015, at approximately 11:36 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

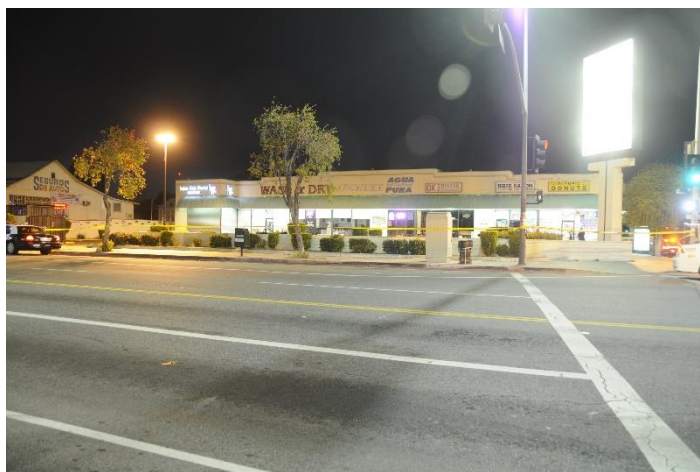
The following analysis is based on reports submitted to our office by LAPD Detective Timothy Brausam. The reports include investigative reports, forensic science firearms analysis reports, photographic evidence and witness statements. The compelled statements of Officers Gramajo, Nguyen, Almeda, and Crisantos Garcia were considered in this analysis.

FACTUAL ANALYSIS

On April 8, 2015, at approximately 10:23 p.m., Jonathan A. [REDACTED] and Roberto Rodriguez were involved in a dispute in the parking lot of a strip mall at the northwest corner of 4th Street and Soto Street in the City of Los Angeles. Rodriguez removed a handgun from his front waistband, pointed it at Aragon and fired three rounds. At the same time, uniformed Officers Rufus Ward and Matthew Calleros were on patrol in a marked patrol car, stopped at a red light at the intersection of 4th Street and Soto Street.¹ As the officers waited for the signal to change, they heard three gunshots coming from the parking lot north of their location.

¹ The officers were facing eastbound on 4th Street.

The officers looked in a northwestern direction and saw A [REDACTED] running southbound from the parking lot onto 4th Street, where he collapsed in the street.² Ward made a U-turn. Calleros saw Rodriguez in the same parking lot.³ Rodriguez looked in the officers' direction and began walking eastbound toward Soto Street. As Ward drove into the parking lot, Rodriguez ran eastbound through the lot, northbound onto Soto Street and out of the officers' view. Calleros broadcast that there was a shooting suspect going northbound on Soto Street from 4th Street and that they needed backup. Ward continued driving eastbound through the parking lot and then northbound onto Soto Street, but neither he nor Calleros were able to see Rodriguez.⁴ Ward stopped the patrol vehicle on Soto Street, and Calleros broadcast a description of Rodriguez and requested additional units respond to set up a perimeter.⁵ Within approximately two minutes, several officers responded to the location, including an Air Support Division helicopter.



Strip mall at the northwest corner of 4th Street and Soto Street

At 10:28 p.m., Ward and Calleros saw Rodriguez break the perimeter and run southeast across Soto Street to 4th Street, and then eastbound along the north side of 4th Street. By this time, Rodriguez was no longer wearing his jacket and hat, but Calleros recognized him as the same person who fled from the parking lot. Calleros and Ward briefed Sergeant Arturo Gutierrez of their observations, who then broadcast Rodriguez' direction of travel and described him as "a male Hispanic with a shaved head wearing a grey t-shirt." In the airship, Tactical Flight Officer Robert Heiserman began searching for Rodriguez. Officers Sergio Gramajo and Michael Nguyen, followed by Officers Hector Almeda and Heriberto Crisantos Garcia, responded eastbound on 4th Street in marked patrol cars.⁶

Sergeant Gutierrez advised the airship that Rodriguez was last seen running eastbound on the north side of 4th Street near a pickup truck parked near Mathews Street. The airship began to illuminate the area, and [REDACTED] Rodriguez ran to Mathews Street, running northbound and crouching down behind [REDACTED]

² A [REDACTED] later died at the scene.

³ Rodriguez was wearing a blue Dodgers hat, blue jacket and black shorts.

⁴ Ward estimated that Rodriguez was approximately three seconds ahead of the officers.

⁵ A perimeter encompassed the area bordered by 3rd Street on the north, 4th Street on the south, Breed Street on the west and Soto Street on the east. A rescue ambulance was also summoned for A [REDACTED].

⁶ Gramajo and Nguyen were in a patrol car, and Almeda and Crisantos Garcia were in a separate unit. [REDACTED]

a vehicle parked on the west side of the street.⁷ [REDACTED]
[REDACTED]
[REDACTED] drove northbound onto Mathews Street in pursuit of Rodriguez.

Rodriguez ran to a residence located at [REDACTED] East 3rd Street and stopped in front of a chain-link fence on the east side of the residence.⁸ All officers exited their vehicles and commanded Rodriguez to, “Stop, stop right there!” Ignoring the commands, Rodriguez jumped over the gate as an officer yelled, “Stop, or I’ll shoot!” Rodriguez turned towards the officers [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Jesus O [REDACTED] was looking out the window of his second-story residence at the northeast corner of [REDACTED] and [REDACTED] and saw Rodriguez, followed by police cars, run northbound on Mathews Street. O [REDACTED] saw Rodriguez clear the fence and turn in the officers’ direction. O [REDACTED] heard the officers issue commands to Rodriguez, and then heard a single “pop” followed by multiple “pops.” Rodriguez’ hands were below his chest when O [REDACTED] heard the gunshots, and O [REDACTED] was unable to see if Rodriguez was holding anything in his hands. Maria L [REDACTED] saw Rodriguez running with his hands in front of his body and under his shirt. Raul G [REDACTED] provided a statement to the news media but refused to speak with FID investigators. G [REDACTED] told the news media that Rodriguez pointed a gun at the officers, and G [REDACTED] believed that Rodriguez had also fired rounds at them. Eulalio F [REDACTED], who was inside his residence at [REDACTED] East 3rd Street, heard an initial volley of gunfire, and then heard a second volley. Tactical Flight Officer Robert Heiserman, in the airship overhead, observed two to three officers approach a house on the southwest corner of 3rd Street and Mathews Street with their guns drawn. Due to the trees and the angle of the airship’s orbit, Heiserman was unable to see Rodriguez. The officers suddenly backed up and an officer fell into the street as smoke filled the air. The officers took cover behind parked cars and approached Rodriguez after additional officers arrived. Heiserman was able to see Rodriguez in a seated position against the house once the airship’s orbit shifted. At the time of the officer involved shooting, the area was illuminated by the airship light that Heiserman was operating and street lighting.



Mathews Street, on the east side of 3rd Street residence

⁷ This was captured on a surveillance camera mounted on a business located at [REDACTED] East 4th Street. The officer involved shooting occurred out of the camera’s view and was not captured.

⁸ The residence is on a corner, and the east yard of the residence is located in the 300 block of South Mathews Street. The yard is elevated above the sidewalk and enclosed by a three-foot high chain-link fence with a swinging gate. Three steps lead up from the sidewalk to the gate.

An arrest team was assembled and several officers approached Rodriguez, who remained upright on his knees, leaning against the house. Officer Frank Lopez handcuffed Rodriguez. A Ruger .45 caliber semiautomatic pistol, with the hammer cocked back, was recovered on the ground next to Rodriguez. One cartridge was in the chamber and one cartridge was in the magazine. Officer Frank Lopez handcuffed Rodriguez. A plastic bag containing seven .45 caliber rounds was found in Rodriguez' pocket.⁹

Los Angeles Fire Department Paramedics arrived and examined Rodriguez. He was pronounced dead at 11:40 p.m.

A blue "LA" baseball cap, a blue and white "LA" pullover, black sunglasses, and a blue bandana were recovered from the rear alley of the business located on the northwest corner of 4th Street and Soto Street, and are believed to have been discarded by Rodriguez while he fled from the officers.

On April 12, 2015, Deputy Medical Examiner Ajay Panchal performed a postmortem examination of Rodriguez' remains and determined that he suffered multiple gunshot wounds. The wounds were located in his left ear, the right chest, right and left arms, abdomen, left buttock and left leg. Rodriguez' toxicological examination showed a level of marijuana, phencyclidine, amphetamine, methamphetamine and ethanol in the blood specimens. The levels were in the range where toxic effects can be seen.¹⁰

Statements of the Involved Officers

Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in administrative discipline including termination from public service. *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285. Gramajo, Nguyen, Almeda and Crisantos Garcia were separately interviewed regarding their actions during this officer involved shooting by detectives from FID. The LAPD orders officers who are involved in an officer involved shooting incident to submit to questioning concerning the performance of their official duties, and ordered the officers to do so in the present case.

Gramajo, Nguyen, Almeda and Crisantos Garcia, like any individual, possess a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against themselves. *Uniformed Sanitation v. City of New York, supra, at 284-285*. Because the LAPD ordered them to answer questions which might expose them to criminal liability, the LAPD compelled the officers to participate in the interviews. The effect of this legal compulsion is that the officers' statements cannot be used against them in a criminal proceeding, nor can any material derived from the compelled interviews be used against them. *Garrity v. New Jersey* (1967) 385

⁹ A total of thirty-two cartridge cases were recovered from the scene of the officer involved shooting. An analysis of the cartridge cases revealed that two were fired from Rodriguez' firearm and thirty were fired from the officers' weapons. One of the cartridges fired from Rodriguez' firearm was recovered from the ground of the yard area near Rodriguez' body and the other was within the bushes of the yard adjacent to his body. The two yards were separated by a chain link fence. A bullet fragment determined to have been fired from Rodriguez' weapon was recovered from the east side of Mathews Street. The three discharged cartridges recovered from the scene of the murder of Aragon at 4th Street and Soto Street were also determined to have been fired from Rodriguez' handgun.

¹⁰ Phencyclidine and methamphetamine were recovered from Rodriguez' pant pocket.

U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal. 4th 704, 715. Further, because these compelled statements are part of the officers' police personnel files, the statements are confidential and may not be disclosed absent an evidentiary showing and court order. Penal Code section 832.7.

Compelled Statement of Officer Sergio Gramajo

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Compelled Statement of Officer Michael Nguyen

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Compelled Statement of Officer Hector Almeda

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Compelled Statement of Officer Heriberto Crisantos Garcia

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if that person 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.

“Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

“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.

CONCLUSION

The evidence examined in this investigation shows that on April 8, 2015, at approximately 10:23 p.m., Roberto Rodriguez shot and killed Jonathan A [REDACTED] in a parking lot at the intersection of 4th Street and Soto Street in the City of Los Angeles. Simultaneously, Officers Rufus Ward and Matthew Calleros, who were in their patrol car at the same intersection, heard the gunshots and saw Aragon run out of the parking lot onto 4th Street and collapse in the street. Driving over to investigate, Calleros saw Rodriguez walk away eastbound from the parking lot toward Soto Street. Upon seeing the officers enter the parking lot, Rodriguez ran away onto Soto Street and out of the officers’ view. Searching for Rodriguez on Soto Street, neither Ward nor Calleros were able to see Rodriguez, and Calleros broadcast that help was needed establishing a perimeter and locating the

[REDACTED]

suspect of the shooting. Several uniformed officers in marked patrol cars and an airship responded to assist.

A few minutes later, Rodriguez, who had discarded his jacket and hat, broke the perimeter, ran across Soto Street and eastbound on 4th Street. Officer Sergio Gramajo, on patrol with Michael Nguyen, and Officer Hector Almeda, patrolling with Heriberto Crisantos Garcia, responded eastbound on 4th Street. Rodriguez ran northbound on Mathews Street, and hid behind a parked vehicle [REDACTED]

[REDACTED] The officers pursued Rodriguez on Mathews Street. Rodriguez ran to the fence in front of a residence located at [REDACTED] East 3rd Street. Officers yelled for Rodriguez to stop and show his hands, but he ignored the commands and jumped over the fence into the yard of the residence. [REDACTED] Rodriguez turned towards the officers [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Rodriguez, having shot and killed Aragon in the parking lot, attempted to avoid capture from the police by fleeing the scene, changing his clothing to conceal his identity, and hiding. [REDACTED]

[REDACTED]

Given the rapidly evolving, life threatening situation that confronted Officers Gramajo, Nguyen, Almeda, and Crisantos Garcia, we conclude that they acted lawfully in self-defense and defense of each other. We are therefore closing our file and will take no further action in this matter.