

**Officer Involved Shooting of Andrew Valadez
Los Angeles Police Department**

Officer Quincy Walunga, #36466

J.S.I.D. File #15-0197



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District Attorney

Justice System Integrity Division

October 28, 2016

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 Andrew George Valadez
J.S.I.D. File #15-0197
L.A.P.D. File #F032-15

DATE: October 28, 2016

The Justice System Integrity Division (JSID) of the Los Angeles County District Attorney's Office has completed its review of the April 23, 2015, fatal shooting of Andrew Valadez by Los Angeles Police Department (LAPD) Officer Quincy Walunga. We have determined Officer Walunga acted in lawful self-defense and the defense of others.

The following analysis is based upon a series of reports and transcribed interviews prepared by LAPD Force Investigation Division (FID). JSID was notified of this shooting at 7:50 a.m. on April 23, 2015. The District Attorney Response Team responded to the location of the shooting where they received a briefing and "walk-through" of the scene. The compelled statements of Sergeant James Merle, Officers Thomas Bangasser, Christina Caprioli, Scott Goodwin, Juan Lopez, Erika Sanchez, Miguel Alarcon, Ricardo Hernandez and Quincy Walunga were considered for purposes of this analysis.

FACTUAL ANALYSIS

At approximately 6:45 a.m., on April 23, 2015, Vincent Perez was awakened by a person yelling profanities. He walked onto his balcony and saw a man, later identified as Andrew Valadez, kneeling down and shouting profanities at a dog. Perez asked Valadez what he was screaming about, whereupon, Valadez removed a large black handgun from his waistband and pointed it at Perez.¹

Perez stated that he thought Valadez was on drugs because of the "weird look in his face." Perez threw a glass cup at Valadez but did not hit him. Valadez then pointed the handgun at his own head, lowered his hand holding the firearm to his side and walked away. Perez grabbed a

¹ The "handgun" turned out to be a replica firearm. Its physical characteristics, including its size, shape, and color coupled with the manner in which Valadez was holding and pointing it, made it indistinguishable from an actual firearm. For clarity, this object will be referred to as a handgun or firearm.

baseball bat, exited his residence and followed Valadez. As Valadez walked, he alternated waving the firearm in the air, holding it down by his side and pointing it at his own temple. After following Valadez down Oro Grande Street and onto Paddock Street (approximately .2 of a mile) Valadez called 9-1-1 and reported a man with a gun. Almost simultaneously, two other persons called 9-1-1 and reported a man with a gun.

Valadez walked north on Dronefield Street then turned west onto the south sidewalk of Tyler Street.² At the corner of Tyler Street and Borden Avenue, one block west of Dronefield Street, is the Olive View Middle School. The school borders the south sidewalk of Tyler Street. April 23, 2015, was a Thursday, a school day, and shortly before 7:00 a.m. children and teachers were beginning to arrive at school.

Valadez continued west on Tyler Street on the south sidewalk and approached the school. A twelve year-old boy was also walking west on the south sidewalk of Tyler Street in front of Valadez. As Valadez approached the school, an unidentified female driver slowed her car adjacent to the boy and told him to run. The boy turned around and saw Valadez pointing the handgun at him from a few feet away.

The boy ran into the campus and contacted teacher Tay Aston. The boy told Aston that there was a man with a gun. Aston looked toward the street and saw Valadez “very agitatedly walking . . . kind of swinging his arms around wildly. I didn’t see him aim the gun at anyone, but he definitely was wildly kind of gesturing with it.” Aston heard Valadez state, “I’m going to take myself out of this fucking world.” Aston and the boy ran from Valadez to the school office. Aston directed the office manager to place the school on lockdown and call the police.

Valadez continued west on Tyler Street approaching Glenoaks Boulevard as the first LAPD police cars began to arrive. Officers Thomas Bangasser and Christina Caprioli drove west on Tyler Street, past the middle school and saw Valadez walking on the sidewalk waving the firearm in the air.³ Both officers got out of the patrol car, drew their service weapons and ordered Valadez to “stop” and “stop right there” and “put the gun down.” Valadez refused to comply.

Valadez crossed Glenoaks Boulevard to the west sidewalk and walked a short distance north. Other LAPD officers arrived at the intersection of Tyler Street and Glenoaks Boulevard in rapid succession including: Sergeant James Merle, Officers Scott Goodwin, Juan Lopez, Erika Sanchez and Miguel Alarcon. Shortly thereafter Valadez reversed his direction crossing Tyler Street and walking south on the west side of Glenoaks Boulevard.

Caprioli described driving west on Tyler Street approaching the middle school. She saw people out in front of the middle school who were waving at them and pointing west toward Glenoaks Boulevard. As she drove west on Tyler Street, she saw Valadez facing west near the northeast

² The streets in this area are not oriented in conformity with the compass points. Accordingly, the witnesses are inconsistent when describing direction of travel. The actual descriptions of witnesses are included with parenthetical compass points added for clarity.

³ Caprioli was driving and Bangasser was the passenger in a marked LAPD patrol car. Both officers were wearing full LAPD uniforms.

corner of Tyler Street and Glenoaks Boulevard. She stopped the police car just east of Valadez and she and Bangasser exited the police car. She saw Valadez holding what appeared to be a semiautomatic firearm in his right hand. Valadez walked west across Glenoaks Boulevard waving the gun and intermittently pointing it at the right side of his head. Caprioli stated that Valadez appeared very agitated and upset. Both she and Bangasser ordered Valadez to drop the gun but he did not comply or respond. As Valadez was crossing the street, she heard Bangasser say that the gun might be fake.

Caprioli believed that Sergeant Merle, as well as Officers Goodwin and Lopez, also arrived at the intersection of Tyler Street and Glenoaks Boulevard at about the time Valadez began to walk north on Glenoaks Boulevard. At that point Sergeant Merle “chirped” the police siren in his car.⁴ Valadez turned to face the officers and continued waving the firearm. Caprioli saw vehicles pass between the position of the officers and Valadez along Glenoaks Boulevard. She did not see Valadez point the gun at any of the officers or vehicles that were driving on Glenoaks Boulevard, but believed that the flow of traffic between Valadez and the officers was a potential danger should deadly force become necessary.

Valadez appeared to be talking to himself and extremely agitated, although Caprioli could not understand what he was saying. Valadez then crossed Tyler Street and walked south on Glenoaks Boulevard. At that point, Caprioli and Bangasser reentered their police vehicle and repositioned it to face south on Glenoaks Boulevard. They drove some distance south on Glenoaks Boulevard following Valadez and stopped. As Caprioli exited her vehicle, she heard a shot and saw Valadez fall to the ground. She did not see who fired. As Valadez lay on the ground the firearm was near his body. Her partner approached Valadez and kicked the firearm away from Valadez and handcuffed him. Once Valadez was handcuffed, she heard an officer radio for an ambulance.

Bangasser described driving south (west) on Tyler Street past the middle school where people out front waved and pointed south (west) on Tyler Street.⁵ He and Caprioli drove towards Glenoaks Boulevard where he first spotted Valadez near the northwest corner of Glenoaks Boulevard and Tyler Street. Valadez had a gun in his right hand and was waving it around. Bangasser radioed the location of Valadez. Valadez crossed Glenoaks Boulevard and began walking north on the west side of Glenoaks Boulevard. Bangasser and Caprioli exited the police car and ordered Valadez to “put the gun down” and “stop right there.” Valadez did not comply.

Valadez reversed his direction and began to walk south on Glenoaks Boulevard. Valadez pointed the firearm at his head and pulled the trigger, with no apparent results. Bangasser heard a clicking sound from the firearm and formed the opinion that the firearm might be a “fake” gun. He stated, “I think it’s a fake gun.” Bangasser did not broadcast his observation and opinion over the police radio nor did he remember if he yelled out his opinion.⁶

⁴ “Chirping” a police siren is vernacular for causing a short blast from the siren.

⁵ See, footnote 2 regarding orientation of streets and compass points.

⁶ Because of the fluidity of the situation, it is unclear precisely how many other officers had arrived on the scene at the time that Bangasser made this statement. Bangasser remembered that, in addition to his partner, Officers Alarcon, Sanchez, Goodwin and Lopez were present when he made the statement. He does not remember if Officer Walunga was present. Based on the fact that Walunga and her partner Hernandez arrived at the incident from a different direction and were separated both in time and space from the other officers, it appears that Walunga and

After Valadez was shot and fell to the ground, the firearm was laying approximately three feet from him. Bangasser approached Valadez and kicked the gun away from Valadez. Bangasser then handcuffed Valadez. Prior to the shooting, Bangasser never saw Valadez point the gun at any of the assembled police officers.

Sergeant Merle described that he drove south (west) on Tyler Street and stopped near the intersection of Glenoaks Boulevard and Tyler Street, where he first saw Valadez on the west side of Glenoaks Boulevard just north of Tyler Street.⁷ Valadez had a firearm in his hand. Merle heard another police officer order Valadez to drop the weapon, whereupon Valadez pointed the gun at his own head. Fearing that Valadez would shoot him or the other officers present, Merle drew his service weapon. Merle heard other officers continue to give commands to Valadez. Valadez did not comply with the orders and turned around and walked south on Glenoaks Boulevard, crossing Tyler Street.

As Valadez walked south on Glenoaks Boulevard, he repeatedly pointed the gun at his own head and then lowered it. The police car that was north of Merle turned around and drove south on Glenoaks Boulevard following Valadez. Merle reentered his patrol car and also turned south onto Glenoaks Boulevard. Valadez walked some distance south on Glenoaks Boulevard then stopped and turned to face east. Merle drove his car to the west curb of Glenoaks Boulevard and stopped approximately 25-30 north of Valadez. As he exited his police car, he heard a gunshot and saw Valadez fall to the ground. He did not see who fired. He and the other officers then approached Valadez and handcuffed him. Merle then radioed for an ambulance.

Officer Sanchez described driving south (west) of Tyler Street toward Glenoaks Boulevard with her partner Officer Alarcon.⁸ When they arrived at the intersection of Glenoaks Boulevard and Tyler Street, she saw Valadez near the southwest corner of the intersection walking south on Glenoaks Boulevard. According to Sanchez, Valadez was holding a firearm in his left hand.⁹ She described him as alternating between pointing the firearm at his head, waving the firearm around and pointing the firearm at her and the assembled officers.¹⁰ She ordered Valadez to “drop the gun” one time. She also heard other officers giving him commands. Valadez did not comply.

Valadez continued to walk south on Glenoaks Boulevard. At that point, she and her partner reentered their patrol car to reposition it. They drove south on Glenoaks Boulevard, stopped and got out of the patrol car. Within seconds of exiting her patrol car, she heard a single gunshot and saw Valadez fall to the ground. Sanchez stated she was looking at Valadez when she heard the gunshot, but does not remember what he was doing with his hands at that moment.

Hernandez were not present when Bangasser made this statement. Aside from Caprioli, no other officer stated that they heard Bangasser’s statement.

⁷ Merle was alone driving a marked police vehicle and dressed in full police uniform.

⁸ Alarcon was driving and Sanchez was the passenger officer in a marked police SUV. Both officers were dressed in full police uniform.

⁹ Sanchez was the only officer who stated that Valadez was holding the firearm in his left hand.

¹⁰ [REDACTED], Sanchez is the only officer who stated that she saw Valadez point the firearm at any of the assembled officers.

Officer Alarcon described driving south (west) on Tyler Street towards Glenoaks Boulevard. He stopped the police vehicle just east of the intersection of Glenoaks Boulevard and Tyler Street. Valadez was walking south on Glenoaks Boulevard with what appeared to be a semiautomatic firearm in his hand.¹¹ Alarcon described Valadez as alternating between pointing the gun in the air, at his own head and holding it down towards the ground. Alarcon stated that he never saw Valadez point the firearm at any of the assembled officers.

As Valadez continued south on Glenoaks Boulevard, Alarcon and Sanchez reentered their police vehicle and Alarcon drove south on Glenoaks Boulevard. Alarcon stopped the vehicle and exited. He drew his service weapon and pointed it at Valadez. He ordered Valadez to “drop the gun.” He also heard other officers giving commands to Valadez. Valadez did not comply. Valadez was facing south and continually moving the firearm; pointing it up in the air, back down to the ground and to his head. After a few seconds he heard a gunshot and saw Valadez fall to the ground.

Officer Hernandez was partnered with Officer Quincy Walunga.¹² Hernandez and Walunga responded to a call of a man with a gun. They drove north on Glenoaks Boulevard toward Tyler Street. Hernandez saw Valadez walking south on the west side of Glenoaks Boulevard. Walunga stopped the car approximately 50 feet south of Valadez in the northbound lanes of Glenoaks Boulevard. The front of the vehicle was angled toward Valadez. Hernandez and Walunga both exited the police car.

Hernandez positioned himself behind his open car door and drew his service weapon. He saw that Valadez held a semiautomatic firearm in his right hand and was walking south. Hernandez pointed his service weapon at Valadez and ordered him to “drop the gun.” He also heard Walunga giving Valadez commands. Valadez did not comply and continued to walk south with the firearm in his right hand.

Hernandez saw Valadez point the gun at his own head and then lower the firearm so that it was pointing toward the ground as he continued to walk south. As Valadez continued south, his change of position affected Hernandez’s line of fire so that his line of fire was now across the plane of the police car. In order to cure this tactical difficulty, Hernandez backed south and turned toward the trunk of the police car. As he turned, he heard a single gunshot. When he looked back at Valadez, he saw him fall to the ground. Just before he turned away from Valadez, Hernandez saw that Valadez was lowering the gun from pointing at his head. Hernandez never saw Valadez point the gun at any of the police officers on the scene.

Compelled Statement of Quincy Walunga:

[REDACTED]

¹¹ The interview did not clarify in which hand Alarcon saw Valadez holding the firearm.

¹² Walunga was driving a marked patrol car and Hernandez was the passenger. Both officers were wearing full police uniforms.

[REDACTED]

[REDACTED]

[REDACTED]

Statement of Eduardo Gonzalez:

At approximately 6:50 a.m., Eduardo Gonzalez was dropping off his son at Olive View Middle School on Tyler Street, when he saw Valadez approaching the school on the south sidewalk of Tyler Street waving a firearm. Gonzalez heard Valadez state, “fuck the world” and “I’m going to get the school.” Valadez was switching the gun from hand to hand but “for the most part it was on [sic] the right hand.” Gonzalez stated that the firearm “looked like a Glock to me.” Gonzalez attempted to retrieve his son, but his son had already entered the school. He stopped his car and ran to the school and told workers to lock the door because a man with a gun was out front. About the time Gonzalez recovered his son, he saw three LAPD cars pass in front of the school traveling west on Tyler Street. Gonzalez then advised his son to go back inside the school, and drove west on Tyler Street trailing the police officers.

He saw the police cars stop at the intersection of Glenoaks Boulevard and Tyler Street and saw the officers exit their cars. Gonzalez stopped his car approximately one car length behind the police cars. Gonzalez heard the officers telling Valadez to “drop the gun . . . don’t do this . . . you don’t have to do this . . .let’s talk . . . [and] please drop the gun.” Instead of complying, Valadez “started waving it at them, pointed it at his head, waving it back at them.” Over the course of time that the officers were ordering Valadez to drop the firearm, Gonzalez saw Valadez point the gun in the direction of the officers four or five times. Gonzalez stated that the officers “gave the guy every opportunity to drop the gun.” Gonzalez stated that the officers, “were basically begging him to drop the gun.”

Gonzalez saw Valadez begin to walk north on Glenoaks Boulevard and then reverse his course and walk south. As Valadez walked south on Glenoaks Boulevard, Gonzalez’s view became obstructed by the police cars. Gonzalez heard a gunshot, saw the officers approach Valadez, and then saw Valadez on the ground. He did not know if a police officer shot Valadez or if Valadez had shot himself.

After Valadez was shot an ambulance was summoned.¹³ He was treated briefly at the scene and transported to Holy Cross Hospital where he was pronounced dead.¹⁴

An autopsy was performed by Doctor David Whiteman on April 26, 2015. The cause of death was a single gunshot wound which entered the front left of Valadez's chest. The path of the bullet was front to back and left to right.

Valadez had five documented contacts with LAPD's Mental Evaluation Unit. During two of those contacts, Valadez attempted to commit suicide. According to Valadez's mother, he was diagnosed with schizophrenia and bi-polar disorder at the age of 19.

A chemical analysis of Valadez's blood disclosed the presence of amphetamine, methamphetamine and marijuana.

The weapon that Valadez used during this incident was a Crossman Model Air Mag C11 pellet gun. The underlying color of the weapon was gold, however it was completely wrapped with black electrical tape.¹⁵ The weapon's size, shape and configuration strongly resembled a semiautomatic firearm.

Office Walunga was armed with a Beretta Model 92 FS 9mm semiautomatic pistol. One expended 9mm shell casing was recovered at the scene and one projectile was recovered during Valadez's autopsy.¹⁶

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal.4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use that amount of 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 imminent injury. CALCRIM No. 3470.

Actual danger is not necessary to justify the use of deadly 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 those circumstances. The right of self-defense is the same whether the danger is real or apparent. People v. Toledo (1948) 85 Cal.App.2d 577; People v. Agnello, (1968) 259 Cal.App.2d 785; CALCRIM Nos. 505, 3470.

¹³ Radio logs indicate that a shots fired broadcast was made at 07:00:44 and an ambulance was summoned at 07:00:54, ten seconds later.

¹⁴ Valadez was pronounced dead at 07:25 a.m.

¹⁵ The black electrical tape also covered the orange slide end cap.

¹⁶ These facts indicate that Walunga fired one time at Valadez.

“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.

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.

CONCLUSION

Valadez was mentally ill and had ingested both marijuana and methamphetamine prior to arming himself with a realistic looking replica handgun. He traveled through a residential neighborhood shouting incoherently and pointing the firearm at himself and others, including a young child. When police arrived in response to numerous 9-1-1 calls and repeatedly directed him to relinquish the firearm, he waved the gun around, pointed it at his own head and at the officers who were trying desperately to convince him to surrender. Based on the sound of the trigger pull, Bangasser correctly opined that the firearm might be fake, however he was not able to alert all his fellow officers of his suspicion.

When Walunga arrived at the scene, Valadez was walking south on Glenoaks Boulevard with an angry look on his face waving the firearm. [REDACTED] her partner ordered Valadez to relinquish the firearm, but he refused to do so. [REDACTED]

[REDACTED] Walunga had no reason to believe that the firearm Valadez was using was a replica at the time she fired.

For these reasons, we conclude that Officer Quincy Walunga’s decision to shoot was reasonable under the circumstances and legally justified in self-defense and the defense of others. We are closing our file and will take no further action in this matter.