

**Officer Involved Shooting of Alexander Leon
Huntington Park Police Department**

Officer Gerardo Prado, #5259

J.S.I.D. File #15-0533



JACKIE LACEY

District Attorney

Justice System Integrity Division

May 4, 2016

MEMORANDUM

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

SUBJECT: Officer Involved Shooting of Alexander Leon
J.S.I.D. File#15-0533
H.P.P.D. File #15-05374
L.A.S.D. File #015-00073-3199-053

DATE: May 4, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 6, 2015, non-fatal shooting of Alexander Leon by Huntington Park Police Department (HPPD) Officer Gerardo Prado. It is our conclusion that Officer Prado acted in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on October 6, 2015, at approximately 5:05 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Sergeant Robert Martindale.

The following analysis is based on reports, recorded interviews, and photographs submitted to this office by the LASD – Homicide Bureau. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On October 6, 2015, HPPD Officers Gerardo Prado and Garey Staal were working a two man gang suppression unit driving an unmarked grey Ford Crown Victoria equipped with interior mounted LED light bars and siren. Staal was the driver and Prado was the right front passenger. The officers were each wearing blue jeans, a black shirt with a HPPD badge silkscreened on the

chest area and patches on the sleeves, and a protective vest that identified each as a gang detective. Both officers were aware of a shooting that had taken place the day before in the northern area of Huntington Park. The suspect in that incident was described as a male Hispanic, acting alone, driving either a gold colored Lexus SUV or silver colored Nissan Murano SUV-type vehicle.

At approximately 5:00 p.m., the officers were driving westbound on 57th Street approaching Maywood Avenue when they saw a gold Lexus SUV traveling southbound on Maywood Avenue.¹ The Lexus turned left, traveling eastbound on 57th Street and driving past the officers' vehicle at a distance of 2-3 feet. The officers saw that the driver and sole occupant of the Lexus, later identified as Alexander Leon, appeared to be a Hispanic male. As the cars passed each other, Leon crouched down in the driver's seat, which caused the officers to believe that Leon recognized them as police officers.

The officers decided to follow the vehicle. Staal conducted a three point turn and proceeded eastbound on 57th Street. Leon accelerated the Lexus to approximately 45-60 m.p.h., traveling at an excessive speed in a residential neighborhood.² Staal followed, attempting to catch up to the Lexus.

The officers activated their lights and siren and followed Leon through the residential area. Leon drove at excessive speeds, pulling away from the officers' car and losing them briefly. The officers located Leon on Slauson Boulevard. Leon drove through a red light and the pursuit continued. Ultimately, Leon proceeded northbound on Maywood Avenue. From Maywood Avenue, Leon turned right and attempted to drive eastbound on 56th Street. Due to Leon's speed, he took the turn too wide and collided with a red Toyota Tacoma pick-up truck parked along the north curb facing westbound on 56th Street. Staal followed and stopped his vehicle several feet behind and offset to the driver's side of the Lexus.

Believing that Leon was going to flee on foot, Prado immediately opened his door, exited the vehicle, and stood just outside the door as Staal quickly placed the transmission into park.³ Leon put his vehicle into reverse and accelerated rapidly backwards towards Prado, causing smoke to emanate from the tires. The Lexus collided with the passenger front quarter panel of the officers' car, damaging the right front bumper and the headlight/turn signal assembly, and continued traveling in Prado's direction. Prado believed that Leon was attempting to run him

¹ This location is approximately .6 miles from the location of the October 5, 2015 incident.

² Staal estimated Leon's speed as "45 to 50...maybe even higher." Prado believed Leon was "going about 60." The legal speed limit is 25 m.p.h.

³ At this point in time, Prado believed that "this guy is definitely more than likely our shooter from last night."

over. In fear for his life, Prado fired three rounds at Leon.⁴ The Lexus stopped and advanced forward, traveling eastbound on 56th Street, away from the officers.⁵

Prado got back into the police vehicle and the officers pursued Leon as he drove eastbound on 56th Street, turned northbound on Everett Avenue, and then turned westbound on 54th Street. Leon failed to negotiate a turn at the intersection of 54th Street and Maywood Avenue, a T intersection. Instead, Leon drove straight on 54th Street through the intersection, jumped the curb line, drove onto the sidewalk, and collided head-on with a fence bordering a business located at 5403 Maywood Avenue. Leon exited the Lexus via the driver's side window and ran southbound on Maywood Avenue.

The officers followed Leon a short distance in their vehicle. Prado exited and chased Leon briefly. Shortly after, Leon surrendered without further incident. As he was being detained, Leon asked Prado why Prado had shot him. Prado replied, "Because you tried to run me over." Leon responded, "I'm sorry."⁶

Paramedics were called to the scene and transported Leon to LCMC Hospital. Leon suffered a superficial wound to his left ear and a gunshot wound to his lower back. He survived his injuries.

Investigators located a loaded .40 caliber Sig Sauer handgun on the sidewalk near the driver's side of the Lexus. The firearm's fully loaded detachable magazine was located near the handgun. Investigators also found an unloaded Beretta Model 85F .380 caliber pistol in the glove box of the Lexus.⁷ A search of the Lexus also yielded a pistol cleaning kit and a backpack containing a box of 27 .40 caliber cartridges and a black tube sock holding 14 .223 caliber cartridges. The .40 caliber cartridges were identical to the ammunition found in the loaded Sig Sauer pistol.

Prado was armed with his department authorized Glock model 22gen4 .40 caliber semiautomatic pistol. Prado carried his duty weapon loaded with 16 total rounds. After the incident, Prado's

⁴ Prado told investigators, "At the angle that he was coming at, I believed that he wasn't going to hit our car. He was going to miss our car and hit me and the door and that's when I fired three shots...I definitely thought I was going to get hit by that car." Prado estimated that he began to fire his duty weapon at the time the Lexus collided with the quarter panel of the officers' car. Two of the rounds entered the rear windshield and one entered just below the windshield.

⁵ Staal similarly believed if Leon continued in reverse, he would have "taken out the whole passenger side of our vehicle and I knew my partner was exiting and standing on that side." Staal was "very much" in fear for his partner's safety at that time.

⁶ The officers were consistent in their description of this conversation. Leon indicated that the officers, when taking Leon into custody, said something like, "Hey, do you want to get shot again?" Leon responded, "You mother fuckers shot me!"

⁷ A latent print lifted from the empty .380 caliber pistol magazine that was contained in the .380 caliber handgun matched Leon's left index finger. A fired bullet jacket discovered at the scene of the October 5, 2015 shooting was compared to the .380 caliber pistol found in the Lexus. Lab analysts confirmed that the fired bullet jacket had been fired from the .380 pistol located in the Lexus.

firearm was loaded with 13 total rounds. Two .40 caliber cartridge casings were recovered from the area of 56th Street and Maywood Avenue.⁸ Prado fired his service weapon three times.

Several individuals heard or saw part of the incident. Eunice Loya heard “burning” tires and a crash, and exited her home. She saw the Lexus back up towards an undercover police vehicle. Eunice saw the driver of the police vehicle standing outside the undercover car and heard him yell, “Hey!” while pointing a gun at the Lexus. Eunice then heard three gunshots. Sandra Loya saw the Lexus crash into a parked red truck. She saw an unmarked police vehicle pull in behind the Lexus. The Lexus backed up, hit the police car, and sped off. Sandra heard three gunshots, but did not see anyone exit either car and did not know who shot.

Leon was interviewed by investigators. Leon was “high on some weed” at the time he was driving and did not know why the officers were chasing him. Leon was driving fast because he absconded from probation and was “pretty sure” that there was an active warrant for his arrest. Leon did “not really” see the officers behind him and did not recall crashing into a red Toyota truck, but did admit colliding with the fence. Leon had driven the Lexus for the last one or two nights, but did not know the name of the owner of the car and was “honestly not sure” if the car was stolen. Leon denied possessing a gun.

Based upon his actions, Leon was charged in case number BA440623 with a violation of Penal Code section 245(c), assault on a police officer; Vehicle Code section 2800.2, evading; Penal Code section 10851, unlawful driving of a motor vehicle; Penal Code section 30305(a)(1), unlawful possession of ammunition; and two counts of Penal Code section 29800(a), felon in possession of a firearm. The case is currently set for preliminary hearing on May 16, 2016.⁹

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.

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 merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

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

⁸ A witness reported to investigators that an individual picked up a cartridge casing from the street prior to investigators securing the area.

⁹ Leon was not charged with the October 5, 2015 incident.

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.

The evidence examined shows that HPPD Officers Staal and Prado saw a gold Lexus that matched the general description of a vehicle used in a recent shooting. The Lexus was located in the same general area as the recent shooting and being driven by Alexander Leon, who matched the general description of the person who committed the shooting. As the officers drove past the Lexus, Leon ducked down in the driver's seat, leading the officers to believe that he recognized them as police officers.

Staal turned their vehicle around to follow the Lexus. Leon increased his speed to approximately 45-60 m.p.h. in a residential neighborhood and the officers activated their lights and siren in an attempt to pull Leon over. Leon evaded the officers and attempted to lose them. Leon turned right from northbound Maywood Avenue to eastbound 56th Street, failing to complete the turn and crashing into a parked red Toyota pick-up. The officers stopped behind and offset to the driver's side of the Lexus and Prado immediately exited the car.

Leon placed the car in reverse, quickly accelerated backwards, crashed into the passenger's side of the officers' car, and continued toward Prado. In fear for his life, Prado fired his duty weapon three times, injuring Leon. Leon placed the car in drive and sped off, still attempting to get away from the officers. Shortly thereafter, Leon crashed into a fence bordering a business and was taken into custody.

We conclude that Officer Gerardo Prado was placed in reasonable fear of death or great bodily injury by Leon's actions and acted lawfully in self-defense when he used deadly force. We are therefore closing our file and will take no further action in this matter.