

Non-Fatal Officer Involved Shooting of Nathan Glover

Los Angeles Police Department

Officer Alejandro Higareda, #39219

J.S.I.D. File #21-0116



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

February 16, 2023

MEMORANDUM

TO: CAPTAIN RICH GABALDON
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: Non-Fatal Officer Involved Shooting of Nathan Glover
J.S.I.D. File #21-0116
L.A.P.D. File #F017-21

DATE: February 16, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 19, 2021, non-fatal shooting of Nathan Glover by Los Angeles Police Department (LAPD) Officer Alejandro Higareda. It is our conclusion that there is insufficient evidence to prove beyond a reasonable doubt that Officer Higareda acted unlawfully at the time he fired his weapon.

The District Attorney's Command Center was notified of the shooting on March 19, 2021, at 8:28 p.m. The District Attorney Response Team responded to the location and was given a briefing and walk-through of the scene.

The following analysis is based on investigative reports, firearm analysis reports, a DNA analysis report, audio recordings of interviews, crime scene diagrams, body worn camera video evidence, dash camera video evidence, photographic evidence, and witness statements submitted to this office by LAPD Force Investigation Division Detective Miyeon Kim. No compelled statements by Higareda were considered in this analysis.

FACTUAL ANALYSIS

On March 19, 2021, LAPD Officers Higareda and Juan Aguila were conducting patrol in the City of Los Angeles. The officers were wearing distinct LAPD uniforms and driving a marked LAPD patrol vehicle.¹ Higareda was driving the patrol vehicle, and Aguila was seated in the front passenger seat.

At approximately 6:53 p.m., Higareda and Aguila noticed a Nissan Altima illegally parked near the intersection of Ithaca Avenue and Haven Street. Aguila ran the Altima's license plate on the

¹ The patrol vehicle was equipped with a dash camera (DCV), and both officers were wearing body worn cameras (BWV). The incident was captured on video.

patrol vehicle's mobile digital computer, and the car returned registered to Nathan Glover. The Altima's front driver's side window was down, and Glover was seated in the front driver's seat. According to Aguila, Higareda recognized Glover and informed him that he was "known to possibly carry guns."²

Higareda briefly activated the patrol vehicle's siren and stopped directly behind the Altima, blocking it between the patrol vehicle and another car. Higareda and Aguila began to exit their vehicle, and Higareda said, "Hey boss, turn off the car." The Altima then reversed toward the patrol vehicle as the officers yelled, "Turn off the car!" and "Turn it off!" The rear end of the Altima struck the front end of the patrol vehicle before rapidly accelerating away from the officers.

Higareda and Aguila re-entered the patrol vehicle and radioed that they were pursuing the Altima for "assault on a [police officer]." A brief pursuit occurred where Glover exceeded 60 miles per hour in a residential area, ran a stop sign, and drove on the wrong side of the street to avoid colliding with another vehicle.³ While following Glover, Higareda told Aguila they were in pursuit of a "415 man with a gun."⁴ After traveling approximately one-third of a mile from the location of the initial attempted traffic stop, Glover failed to stop for a posted stop sign, was unable to negotiate a left turn, and collided into a residence.



Figure 1 – Still image from Higareda's patrol vehicle DCV depicting Glover's Altima after it drove into the front of a residence.

As Higareda stopped the patrol vehicle, Aguila broadcasted that a "415 man with a gun" collided into a house, gave the location of the collision, and requested a rescue ambulance respond to the

² LAPD Investigators conducted a recorded interview of Aguila on March 21, 2021. Aguila was unfamiliar with Glover. Without Higareda's compelled statement, it is unknown how he was familiar with Glover. [REDACTED]

³ Aguila provided the speed approximation, and DCV depicts the Altima traveling at a high rate of speed. Higareda activated the patrol vehicle's forward-facing red light but did not activate the siren during the pursuit.

⁴ This statement can be heard on Higareda's BWV. "415" is the LAPD radio code for a disturbance. The basis for Higareda's belief that Glover possessed a firearm is unknown.

location. Higareda exited the patrol vehicle and ran toward the front of a black Hyundai parked on the curb in front of the residence. Glover exited and ran around the rear end of his Altima. Higareda yelled, “Don’t fucking move, Nathan! Don’t fuck—he’s got a gun!”



Figure 2 – Still image from Higareda’s BWV depicting Glover running around the rear end of the Altima.⁵

Higareda drew his duty weapon and ran toward Glover. Glover ignored Higareda’s commands to stop running and crossed the front yard toward the residence’s driveway. Bushes and trees temporarily blocked Higareda’s view of Glover.



Figure 3 – Still image from Higareda’s BWV depicting the bushes and trees blocking Higareda’s view of Glover as Glover ran toward the driveway.

As Glover ran, he appeared to stumble, and his right arm extended backward toward Higareda.

⁵ Higareda’s and Glover’s movements created significant blur in the BWV and DCV. The quality of the BWV and DCV is insufficient to make a definitive determination as to whether Glover has an object in his hand.



Figure 4 – Still image from patrol vehicle DCV depicting Glover running away with his right arm extended backward toward Higareda.⁶

At the time Glover’s arm raised toward Higareda, Higareda’s BWV was blocked by his hands, arm, and duty weapon.



Figures 5 & 6 – Sequential still images from Higareda’s BWV depicting the camera’s field of view when Glover’s arm was raised toward Higareda.

Simultaneously, Aguila exited the patrol vehicle’s passenger side and began running up the driveway yelling, “Don’t move!” According to Aguila, he observed a “shiny black object” that he believed to be a handgun moving near Glover’s waistband. Aguila was unsure if the firearm was in Glover’s right hand or waistband but saw Glover “kind of look back at us.”

Glover ran toward an opening between a gate that crossed the driveway and the neighbor’s house. As he ran, Glover brought his right arm back in front of him as he turned his body slightly to enter the opening. Higareda yelled, “Don’t move. Don’t ...” while simultaneously

⁶ Higareda’s quick movements caused the image of his body to blur considerably on the DCV.

stopping, taking a two-handed shooting stance, and then discharging one round from his duty weapon at Glover.⁷



Figure 7 – Still image from Higareda's BWV depicting Glover's position when Higareda discharged his service weapon.



Figure 8 – Still image from patrol vehicle DCV depicting Higareda's position when he discharged his service weapon.⁸

Higareda's round struck Glover in his lower right back, and he immediately fell onto his back into the grass. Aguila and Higareda both radioed that shots had been fired and requested that

⁷ Approximately 1.6 seconds elapsed between Glover's arm being extended toward Higareda and Higareda discharging his duty weapon. Approximately one minute elapsed between the attempted traffic stop and the officer-involved shooting.

⁸ Aguila's BWV at the time of the officer-involved shooting is not shown because of significant image blur and Glover's body being obscured by a bush adjacent to the driveway.

additional officers and an ambulance respond to the location. After backup officers arrived, Glover was moved onto the driveway, handcuffed, searched, and placed in the recovery position until Los Angeles Fire Department firefighter-paramedics arrived and provided medical aid.⁹ Glover was transported to Los Angeles County University of Southern California Medical Center (USCMC), where he was treated for a gunshot wound to his back.

LAPD investigators recovered a 9mm Luger Caliber, Polymer 80, model PF940V2 semiautomatic handgun from the grass area where Glover fell after being shot.¹⁰ The firearm was unloaded, having no magazine in the magazine well or round in the chamber.



Figures 9 & 10 – Photographs depicting the Polymer 80 firearm that was recovered from the grass near where Glover fell.

Investigators recovered a loaded extended 9mm magazine containing 21 live 9mm rounds lying on the ground near the Altima’s driver’s side doors.



Figures 11 & 12 – Photographs depicting the firearm magazine recovered from the ground near Glover’s car.

⁹ The recovery position is also known as the “semi-prone” position and is designed to prevent suffocation through obstruction of the airway.

¹⁰ Polymer80 firearms are sold online. The handguns are sold no more than 80% complete, thereby avoiding federal firearms regulations. Consumers can purchase lower receivers and the other materials needed to build and complete the firearm assembly at home. Polymer80 lower receivers and handgun frames lack serial numbers for identification and are often referred to as “ghost guns.”

Investigators recovered one cartridge casing discharged from Higareda's service weapon headstamped "FEDERAL 45 AUTO" from the driveway in front of the residence.

On March 21, 2021, LAPD investigators went to USCMC and attempted to interview Glover. According to the arrest report, Glover told investigators that he could not talk because he was in pain and that he couldn't recall what happened to his car but recalled being shot by the police.

On May 10, 2021, LAPD Forensic Science Division Analyst Randy Zepeda reported the findings of his comparison between a DNA sample taken from Glover and DNA swabs taken from the Polymer 80 firearm and magazine recovered from the scene. Glover's DNA was found on both the handgun and the magazine.

On May 28, 2021, Glover was charged in case number BA495818 with felony violations of Penal Code section 29800(a)(1), possession of a firearm by a felon, and Penal Code section 30305(a)(1), unlawful possession of ammunition. Glover was also charged with a misdemeanor hit and run in violation of Penal Code section 20002(a). On April 28, 2022, Glover pleaded no contest to a felony violation of Penal Code section 29800(a)(1) and a misdemeanor violation of Penal Code section 20002(a). Glover was sentenced on November 18, 2022, to two years of formal probation.

LEGAL ANALYSIS

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) & (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code section 835a(a)(4) & (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

In this case, Higareda and Aguila attempted to contact Glover for illegally parking his Nissan Altima. When the officers exited their vehicle, Glover reversed the Altima into Higareda's patrol vehicle and fled the location. According to Aguila, Higareda was familiar with Glover and knew him to have "possibly carried guns" in the past. Glover led the officers on a brief pursuit where he drove in a reckless and dangerous manner, ultimately colliding into an occupied house.

Higareda ran toward Glover as he was exiting his vehicle. Higareda ordered Glover to stop and alerted Aguila that Glover was armed with a gun. The evidence suggests the magazine fell out of Glover's firearm when he exited his car; however, there is no indication that Higareda was aware of that fact. Patrol vehicle DCV shows Glover appearing to stumble and his right hand raising up and backward toward Higareda. Higareda's view was temporarily blocked, and it is unknown if he saw Glover stumble. The video evidence suggests Higareda was likely able to see Glover's arm raised in his direction after he stumbled although the BWV itself was obstructed by Higareda's arms and duty weapon. Aguila described seeing a firearm in Glover's right hand or waistband and Glover "look[ing] back" at them. While the video evidence is insufficient to determine if Glover had a firearm in his hand at that time, Higareda's apparent observation and subsequent warning to Aguila that Glover had a gun, Aguila's observation of a gun in Glover's right hand or waistband, and the recovery of a firearm near Glover after he was shot suggest it was in his right hand during the incident. Higareda took several steps after Glover's arm was lowered, stopped running, and discharged his duty weapon.

Although Higareda's shot is not contemporaneous with Glover's arm being raised toward him, only approximately one and a half seconds elapsed between Glover's hand, and likely a firearm, being pointed toward Higareda, and Higareda discharging his service weapon. This short time lapse is not inconsistent with Higareda perceiving Glover pointing a handgun in his direction as a threat, making the decision to discharge his service weapon, taking a shooting stance, and pulling the trigger. The prosecution has the burden of proving beyond a reasonable doubt that deadly force was not justified. CALCRIM Nos. 505, 507. It is not a defendant's burden to prove that force was necessary or reasonable. Based on the totality of the circumstances, including Glover's actions during the tense, uncertain, and rapidly evolving incident, the evidence is insufficient to prove beyond a reasonable doubt that Higareda's use of force was not necessary and reasonable.

CONCLUSION

We conclude that there is insufficient evidence to prove beyond a reasonable doubt that Higareda's decision to use deadly force was unreasonable.