

Fatal Officer Involved Shooting of Francisco Flores
El Monte Police Department

Officer Erick Ramos, #679

Officer Rene Flores, #639

J.S.I.D. File #21-0063



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

April 14, 2022

MEMORANDUM

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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Francisco Flores
J.S.I.D. File #21-0063
E.M.P.D. File #21-005293
L.A.S.D. File #020-00020-3199-013

DATE: April 14, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 15, 2021, fatal shooting of Francisco Flores by El Monte Police Department (EMPD) Officers Erick Ramos and Rene Flores. It is our conclusion that both officers used lawful and reasonable force in self-defense and in defense of another.

The District Attorney's Command Center was notified of the shooting at approximately 3:05 p.m. on February 15, 2021. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, recorded interviews, firearm analysis reports, autopsy reports, crime scene photos, DNA analysis, body-worn video (BWV), surveillance videos, and witness statements submitted to this office by Los Angeles County Sheriff's Department Detectives Robert McGaughey and Scott Lawler. Officers Ramos and Flores did not provide voluntary statements, and no compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On February 15, 2021, at approximately 1:53 p.m., EMPD received a 9-1-1 call from [REDACTED], a store manager at the Skechers Footwear Outlet located at [REDACTED] Avenue in El Monte. She called to report that a man, later identified as Francisco Flores, had entered the store,

tried on a pair of new shoes, and walked out the door wearing them and without paying. She reported that she had tried to stop him from leaving, but he told her to “get out of [the] way” and pushed her twice. █████ stepped back out of fear that Francisco Flores would become more violent. In later interviews, █████ noted that Francisco Flores appeared disheveled and had red eyes. She stated that he appeared to be “either tired or on something,” and that he “wasn’t all there.”

Francisco Flores walked eastbound on Garvey Avenue toward the intersection with Durfee Avenue. At approximately 1:58 p.m., EMPD broadcast that a robbery had occurred at the Skechers store and provided a physical description of the suspect, as well as the direction he was walking. Officer Erick Ramos responded to the call. At approximately 2:02 p.m., Francisco Flores was walking on the sidewalk at the northeast corner of Durfee and Garvey Avenues when Ramos arrived and parked his patrol car at the intersection. Ramos exited his car and ordered Francisco Flores to sit down.

Francisco Flores refused and turned and ran across the street toward a dirt embankment located between the Garvey Avenue/Durfee Avenue on-ramp to the eastbound 10 freeway and the Garvey Avenue/Durfee Avenue off-ramp from the westbound 10 freeway.¹



Fig. 1 — The dirt embankment where the incident occurred.

Ramos chased Francisco Flores across the street and up the embankment. At 2:02 p.m., Ramos broadcast that he was in foot pursuit of a suspect. As the officer began to catch up with Francisco Flores, Francisco Flores stopped running and turned around. Francisco Flores formed

¹ The distance between the Skechers store and the location where the officer-involved shooting occurred is approximately half a mile.

his right hand into a fist, and the two men began to fight. At one point, Ramos deployed a Taser, which did not appear to make contact with Francisco Flores.² During the struggle, Ramos dropped his Taser.

As the fight continued, Officer Rene Flores arrived via patrol car and ran toward the men. His BWV depicts Francisco Flores on top of Ramos as he arrives on scene. According to several witnesses, Francisco Flores appeared to be winning the fight until Rene Flores arrived. Rene Flores joined the fight and, within seconds, both officers discharged their firearms.³

Officer Justin Calatayud arrived at the dirt embankment just as he heard “998” broadcast over the radio.⁴ As he approached, he saw Rene Flores lying on his back, covered in dirt. He saw Ramos standing with a gun drawn and pointed at Francisco Flores. Francisco Flores was lying prone with his hands under his body. He said both men looked shaken up and as if they had been in a “fight for their lives.” As he approached Francisco Flores, Rene Flores said, “He’s got a gun.” Officer Kevin Clark joined and helped Calatayud roll Francisco Flores to his right side. The officers found an EMPD-issued Sig Sauer handgun with its tactical flashlight turned on under Francisco Flores’ torso. The gun was later confirmed to be the Sig Sauer P-226 Legion 9mm semiautomatic pistol that Ramos carried as his primary duty weapon. The gun was fully loaded with 18 cartridges in the magazine and one in the chamber.⁵

Both Rene Flores and Ramos were observed and photographed after the shooting. Both officers had dirt on their uniforms and blood droplets on their arms. Ramos appeared to have redness and bruising to his face, as well as minor abrasions on his inner left forearm. Rene Flores had minor scratches on the back of his left hand. Ramos and Rene Flores gave brief public safety statements. Ramos stated that he believed he had fired three rounds from his revolver in a southbound direction.⁶ Rene Flores believed he had fired approximately five rounds in a southbound direction.⁷ Five .38 special casings and two 9mm casings were found and collected at the scene.

Francisco Flores was pronounced deceased at 2:19 p.m. An autopsy was performed on February 16, 2021 by Los Angeles County Deputy Medical Examiner Abubakr Mazour. The autopsy found seven gunshot wounds to Francisco Flores’ upper and lower back. Evidence of close-range firing on the skin was found for five of the wounds. Toxicology results indicated the presence of alcohol, methamphetamine, amphetamine, and marijuana in Francisco Flores’ blood. Two particles characteristic of gunshot residue were found on Francisco Flores’ left hand.

² One Taser prod was later recovered from the ground near Francisco Flores. A second prod was not located. Ramos’ Taser, with an expended cartridge, as well as Taser wires, were also recovered on the dirt embankment.

³ Less than one minute passed between the moment Ramos approached Francisco Flores and the time of the shooting.

⁴ The term “998” refers to an officer-involved shooting.

⁵ The pistol was examined, test fired, and determined to be functional.

⁶ Investigators took possession of and examined Ramos’ back-up weapon, a Smith & Wesson 38 SPL AirWeight revolver. They found five fired cartridge casings in the cylinder. The revolver’s cylinder allowed for a capacity of five rounds, and Ramos confirmed that he normally carried the revolver with five live rounds in the cylinder.

⁷ Investigators took possession of and examined Rene Flores’ duty weapon, a Sig Sauer P-226 Legion 9mm semiautomatic pistol. The gun was loaded with one live round in the chamber and 16 live rounds in the magazine. Rene Flores confirmed that he normally carries the gun at full capacity with one round in the chamber and 18 in the magazine. Dirt and blood were found near the barrel and attached flashlight.

After the incident, Detectives Lawler and McGaughey interviewed Francisco Flores' parents in separate interviews. Francisco Flores' father said that his son normally lived in Phoenix with his mother, but was visiting him at the time. When Francisco Flores left the house on the morning in question, he looked as if he had not slept. His father stated that his son appeared to have been "on something" and had been talking to himself the night before the incident. Francisco Flores had been diagnosed with schizophrenia and was prescribed medication, but he had previously told his father that he did not want to take the medications anymore. His father said that his son also suffered from paranoia, which was exacerbated when he did not take his medications.

Investigators also spoke with Francisco Flores' mother, who confirmed that her son suffered from schizophrenia, depression, and hallucinations, and stated that he had been admitted to a psychiatric hospital in the weeks prior to the shooting. She said that her son often hallucinated that the government was after him, and that if he stopped taking his medications, he would have a "crisis."

Statement of [REDACTED].

[REDACTED] was driving toward the eastbound 10 freeway when he spotted a patrol car at the intersection of Garvey and Durfee Avenues. From approximately 150 to 200 feet away, he watched Ramos approach Francisco Flores. [REDACTED] thought the interaction seemed normal, until Francisco Flores became agitated, waved his arms around, and "was not cooperating." [REDACTED] saw Francisco Flores push Ramos, who then tried to control him and calm him down by grabbing at his left bicep with both hands. [REDACTED] said Francisco Flores slipped out of Ramos' grasp, pushed him, and darted up the off-ramp.⁸

Ramos chased Francisco Flores up the off-ramp. Francisco Flores appeared to stop running, and when Ramos caught up to him, a fight began. [REDACTED] said that Francisco Flores began to punch Ramos repeatedly, and that Ramos punched back and tried to gain control. Francisco Flores slipped away again and ran to the dirt median, where Ramos again caught up. [REDACTED] said the scene was chaotic and it appeared that Francisco Flores was getting the upper hand. At that point, [REDACTED] was approximately 300 feet away. He saw both men fall to the ground. The officer was on his back with Francisco Flores on top of him. The two rolled around like a "washing machine." [REDACTED] feared that Francisco Flores would take Ramos' gun based on his aggressive behavior and because it appeared that it would have been easy for him to do so. He described Francisco Flores as "giving the officer hell" and throwing him around "like a rag doll." [REDACTED] said he believed that Rene Flores had saved Ramos' life because Ramos "was in serious trouble" until his arrival.

A second officer, Rene Flores, arrived and parked his car on the on-ramp. He ran toward the scene and began punching Francisco Flores. [REDACTED] lost sight of the men as traffic moved and he drove his car forward. One of the last things [REDACTED] saw was Rene Flores stand up holding an object in his hand, which he believed to be a gun or a Taser. He next heard three to four gunshots fired in two volleys, but he did not see who fired them.

⁸ Neither Ramos' BWV nor nearby surveillance video appears to capture any physical altercation between Francisco Flores and Ramos before the two men run up the embankment.

Statement of [REDACTED].

On the day of the shooting, [REDACTED] was driving with his wife and two children on the Durfee Avenue off-ramp from the 10 freeway. While stopped, he saw two men fighting in a dirt embankment, with one—Francisco Flores—appearing to be the aggressor and the other—Ramos—back-pedaling away. Francisco Flores pushed Ramos and punched him numerous times. From his vantage point approximately 25 feet away, [REDACTED] saw Ramos in what he called a “football stance” with his arms around Francisco Flores’ legs. [REDACTED] believed Francisco Flores was winning the fight and Ramos was “just trying to make it until backup arrived.”

Within five to ten seconds, a second officer, Rene Flores, arrived. [REDACTED] saw him run toward Ramos, who had fallen to his hands and knees. Rene Flores punched Francisco Flores, who punched back. During the fight, [REDACTED] saw Francisco Flores punch each officer at least three to four times, including in the head and face, and described him as “going to town” on Ramos. The two officers “scuffled” with Francisco Flores and began to take him to the ground.

At that moment, [REDACTED] saw Francisco Flores reach toward Ramos’ belt near his hip area. He saw an item, which he assumed was a gun, come loose from the belt. [REDACTED] had seen Francisco Flores’ hands as he had punched the officers, and knew that they were empty until he reached toward Ramos’ belt. He then saw an item in Francisco Flores’ right hand as he fell to the ground. Francisco Flores initially appeared to be on his back, then flipped to his stomach. A moment later, he heard a single gunshot. He then saw Rene Flores draw a firearm from a kneeling position and shoot Francisco Flores approximately three times. After, he saw Ramos help Rene Flores stand up, and saw that Rene Flores appeared to have a limp.

Statement of [REDACTED].

[REDACTED] was in the car with her husband, [REDACTED], and their two children, when [REDACTED] pointed out that two people were fighting in the dirt median to the left of their car. She realized one of the men was a police officer based on his EMPD patch and gun belt. She described the other man, Francisco Flores, as having an “angry” and “furious” look on his face. She saw them rolling around and wrestling, and believed Francisco Flores to be the primary aggressor, as he was repeatedly punching the officer, Ramos, who was hunched over on his knees. Ramos wrapped his arms around Francisco Flores’ waist. Francisco Flores leaned forward over Ramos and began punching him in the upper back and the back of his head with both of his fists. [REDACTED] believed they held that position for ten to 15 seconds before Ramos tried to punch Francisco Flores back. [REDACTED] believed Francisco Flores was “winning” the fight. [REDACTED] heard a bystander yelling something at the men but could not hear what was said.⁹

She heard [REDACTED] say, “He’s getting his gun,” then looked and saw Ramos on his knees with Francisco Flores in front of him. She saw Ramos’ and Francisco Flores’ hands fumble around

⁹ [REDACTED], [REDACTED], and [REDACTED] each described a man who exited his car or truck and began to yell at the officers, while holding a phone in a manner that suggested that he was filming the incident. [REDACTED] heard the man yell that the officers should not have shot Francisco Flores. No personally identifying information was provided for the witness, and attempts to discover his identity through reviewing social media accounts that referenced the shooting were unsuccessful.

the area of Ramos' right hip. Francisco Flores' left hand then reached over Ramos' back toward his gun. She saw a piece of equipment on Ramos' belt begin to "flap," which she believed to be the hood of his gun holster. She saw a hand move toward the gun, but could not tell whose hand it was, as both men's hands were near the gun. She then heard a gunshot. At that time, a second officer came running up the embankment.¹⁰

█████ looked away to tend to her children, and when she turned back, the men were "rolling around" and "wrestling." Francisco Flores was on the ground, and one of the two officers appeared to grab onto his back, while the other stood in front of him. She saw Francisco Flores moving on the ground and an officer standing behind him with a gun in hand. She then heard three additional gunshots.¹¹ At no time did Heather see an object in Francisco Flores' hands.

Video¹²

Surveillance Footage

Cameras from the Route 66 Gas Station located at █████ Garvey Avenue captured the initial interaction between Ramos and Francisco Flores. Francisco Flores can first be seen walking eastbound on Garvey Avenue approaching the intersection with Durfee Avenue. Francisco Flores crosses the street to the northeast corner of the intersection. As he crosses, Ramos' patrol vehicle stops in front of Francisco Flores. Ramos exits and approaches Francisco Flores. After a few seconds, both men run eastbound toward the freeway off-ramp and out of sight. As Ramos chases Francisco Flores, his arm appears to extend out. Soon after, a patrol vehicle drives onto the on-ramp and parks. An officer is seen running down the embankment.

BWV

Ramos' BWV

Ramos was equipped with a department-issued body-worn camera. His camera was activated as he drove his patrol vehicle toward the intersection of Garvey and Durfee Avenues. The BWV shows Ramos park his car, exit, and approach Francisco Flores. He says, "Have a seat dude," and asks "Where did you come from?" Francisco Flores responds, "Pomona." Ramos repeats, "Have a seat." Francisco Flores then says, "I got to go, dude." Ramos again commands Francisco Flores to sit, and Francisco Flores continues to say he has to go. Ramos says, "I'm going to fucking Tase you," to which Francisco Flores responds, "Go ahead." Both men begin running eastbound toward the 10 freeway. Ramos broadcasts that he's in a foot pursuit. Within ten seconds, Francisco Flores reaches the dirt embankment, and Ramos begins to catch up. Francisco Flores then turns to face Ramos and raises both hands. Ramos' Taser can be seen in his left hand, and Flores is seen with his right arm raised and his hand forming a fist. A struggle ensues and the Taser falls to the ground.

¹⁰ Ramos' BWV does not support █████'s statement that a gun was fired prior to the arrival of Rene Flores.

¹¹ █████ believed that approximately 30 seconds to one minute elapsed between the first gunshot she heard and the three shots she believed Rene Flores had fired.

¹² The EMPD patrol vehicles were not equipped with digital in-car video systems.



Fig. 2 — Left — Ramos' BWV showing Francisco Flores making a fist with his right hand.

Fig. 3 — Right — Ramos' BWV showing Taser falling to the ground.

Three seconds later, Ramos appears to fall to the ground. Sirens can be heard, and soon after, the legs of a second officer appear in frame. Indecipherable commands can be heard, and the second officer appears to fall to his knees. The second officer bends over Francisco Flores. A puff of smoke appears, and Ramos is seen holding and firing a revolver in his right hand. Francisco Flores is seen laying on his stomach with apparent gunshot wounds to his back. As other officers arrive, Ramos points to Francisco Flores' back and says, "He's got a gun." The officers order Francisco Flores to put his hands in front of him, and an officer can be heard repeating, "He's got a gun under his body." Ramos and Rene Flores then walk up the embankment away from the scene. Ramos can be heard breathing heavily. Toward the end of the clip, Ramos says, "He has my 417."¹³ Rene Flores responds, "I know. I saw him grabbing it."

Rene Flores' BWV

Rene Flores' EMPD-issued BWV shows him arriving on scene and appearing to run down the dirt embankment toward Francisco Flores and Ramos. As the men come into view, Ramos can be seen on his knees with Francisco Flores on top of him. Rene Flores extends his hand in a fist as he nears the two men.

¹³ The term "417" is commonly used by police officers to refer to a gun.



Fig. 4 — Still from Rene Flores' BWV showing Francisco Flores kneeling over Ramos.

As Rene Flores reaches the two men, Francisco Flores extends an arm out toward Rene Flores. Soon, the camera begins to shake and the video becomes unclear. An officer can be heard yelling, "Get on the ground!" and "Don't move!" Rene Flores appears to fall to the ground and his right arm can be seen briefly with its elbow bent. Soon, a voice says, "Shots fired! Shots fired!" Rene Flores can then be seen on the ground holding a firearm with what appears to be blood splatter on it. Officers arrive and place Francisco Flores in handcuffs. Later in the video, Ramos is visible with no handgun on his Sam Browne belt.

Calatayud's BWV

As Calatayud arrived on scene, his EMPD-issued body-worn camera captured Rene Flores, Ramos, and Francisco Flores all on the ground. One officer can be heard saying, "He's got a gun under his body." Approximately one minute into the video, Francisco Flores is handcuffed and rolled to his right side. A semiautomatic handgun can then be seen under his torso.



Fig. 5 — Still from Calatayud's BWV capturing the gun found under Francisco Flores.

Forensic Evidence

Fingerprints

One latent fingerprint was developed from the side of the magazine of Ramos' Sig Sauer handgun, which was found beneath Francisco Flores' body. The latent impression, which appeared to contain a possible finger or part of a palm, was deemed to be unsuitable for comparison.

DNA

Investigators collected DNA swabs from multiple locations, including Ramos' Sig Sauer handgun, his revolver, and his Sam Browne belt, as well as Rene Flores' duty weapon and belt. Certain samples—including the trigger and grip from Ramos' Sig Sauer handgun—contained multiple possible contributors and were too complex for analysis. A swab from a portion of Ramos' pistol, as well as a swab of his magazine, however, were able to be analyzed. The DNA profiles generated by the swabs, when compared to reference samples, were found with high probability to have originated in part from Francisco Flores.

LEGAL ANALYSIS

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

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 §§ 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 § 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 §§ 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 § 835a(a)(4).

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "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, 396–97.

The evidence examined in this investigation shows that Ramos responded to a call for service regarding a robbery at a Skechers store in El Monte. As he came upon Francisco Flores, he repeatedly ordered him to sit. Francisco Flores refused, turned away, and ran up a dirt embankment separating on- and off-ramps for the 10 freeway. Ramos gave chase, and as he caught up to Francisco Flores, Francisco Flores turned around and began to punch Ramos. Several witnesses described Francisco Flores as getting the upper hand, and stated that Ramos appeared to be in danger, as he was being punched repeatedly to the back and head. In the words of one witness, Francisco Flores threw Ramos around "like a rag doll." Ramos deployed a Taser during this altercation, but it did not appear to make sufficient contact with Francisco Flores. Ramos then dropped his Taser.

Rene Flores soon arrived and ran toward the two men. Francisco Flores could be seen on top of Ramos in Rene Flores' BWV. The sequence of events following Rene Flores' arrival is not clearly depicted by the BWV, but two witnesses stated that they saw Francisco Flores reaching in the area of Ramos' hip. One witness saw an item flapping off Ramos' belt, which she assumed

was the hood of Ramos' gun holster. Another witness saw Francisco Flores reach toward Ramos' hip, then come away with an item in his hand that he believed to be a gun. Though the witnesses each described varying lag times between gunshots, it appears from the BWV that Ramos and Rene Flores each fired their weapons at Francisco Flores within moments of one another. Ramos used his back-up weapon, a revolver. When Francisco Flores was rolled to his side, Ramos' EMPD-issued pistol was visible beneath him. Francisco Flores' DNA was found on portions of Ramos' pistol and magazine.

Accordingly, the evidence suggests that Francisco Flores disarmed Ramos as he wrestled with the two officers. As he fell to the ground, he appears to have taken Ramos' gun with him and either rolled or landed on top of it. Facing a deadly threat and reasonably in fear for their lives, Ramos and Rene Flores fired at Francisco Flores at close range within moments of one another. Seven rounds hit Francisco Flores in the back, resulting in his death. In light of Francisco Flores' violent behavior, ending with his procurement of Ramos' duty weapon, Ramos' and Rene Flores' decisions to use deadly force to stop the deadly threat posed by Francisco Flores were reasonable under the circumstances.

CONCLUSION

We conclude that Officers Erick Ramos and Rene Flores used lawful and reasonable force in self-defense and in defense of another.