

**Fatal Officer Involved Shooting of David Flores**

**Los Angeles Police Department**

**Officer Bryan Tahuite, #42780**

**Officer Andrew Do, #43209**

**J.S.I.D. File #19-0162**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**April 28, 2021**

## MEMORANDUM

TO:                   COMMANDER AL PASOS  
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:           Fatal Officer Involved Shooting of David Flores  
J.S.I.D. File #19-0162  
F.I.D. File #F016-19

DATE:               April 28, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 22, 2019, fatal shooting of David Flores by Los Angeles Police Department (LAPD) Officer Bryan Tahuite and Officer Andrew Do. We have determined that Officer Tahuite and Officer Do acted in lawful self-defense and defense of each other when they used deadly force against Flores.

The District Attorney's Command Center was notified of this shooting on April 22, 2019, at approximately 8:00 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant James Antenucci.

The following analysis is based on reports and other materials, including 9-1-1 calls, radio transmissions, surveillance camera recordings, police body-worn video (BWV), photographs, and interviews of witnesses submitted by the LAPD Force Investigation Division. The compelled statements of Officer Tahuite and Officer Do were not considered in this analysis.

### **FACTUAL ANALYSIS**

On April 22, 2019, at approximately 6:40 a.m., multiple people called 9-1-1 and reported that they saw a man with a gun and heard shots fired near the intersection of Denver Avenue and 168th Street.<sup>1</sup> Shortly thereafter, another caller reported that a man was armed with a gun and a knife at the intersection of Figueroa Street and Gardena Avenue. The caller narrated his

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<sup>1</sup> The investigation later determined that David Flores and his family lived on Denver Avenue. Before the officer involved shooting, Flores was inside his residence with other family members. Flores was reported to be agitated. He may have been hallucinating and was making incoherent statements. Flores fired five rounds inside the apartment, and then fired another round approximately one block south of the officer involved shooting, which was corroborated by the retrieval of the cartridge casings and forensic analysis confirming that the cartridge casings were fired from the gun possessed by Flores at the time of the officer involved shooting.

observations in real time to the operator for several minutes. The caller stated that he was located at a Chevron gas station on the southwest corner of the intersection. The caller stated that the man with the gun accosted another man in a parking lot of a liquor store. Shortly thereafter, the caller stated that the man was, "Pointing the gun. He just shot it! He just shot the gun! He must have shot at the cops! He's down. Wherever he is, he's down. He pointed it at the cops, and the cops shot him!"

At approximately 6:40 a.m., Tahuite and Do, who were partnered together, responded to radio communications regarding a man armed with a gun at the intersection of Gardena Boulevard and Denver Avenue. Tahuite was driving a distinctively marked police SUV, and both officers were dressed in standard police uniforms.

Updated radio communications relayed information to responding officers that a man was armed with a gun and a knife on Figueroa Street, which runs parallel to Denver Avenue. At approximately 6:44 a.m., radio communications broadcast that a man had assaulted a person inside an SUV. Video surveillance captured Flores approach a person seated inside an SUV parked in a liquor store parking lot on the northeast corner of Figueroa Street and Gardena Boulevard. Flores held a gun in his right hand and a knife in his left hand, and Flores momentarily pointed the barrel of the gun at the person before walking away.



Flores walking away from an SUV after pointing a gun at a person.

At approximately 6:46 a.m., Tahuite was driving eastbound on Gardena Boulevard. As he approached Figueroa Street, Tahuite stopped the police SUV and directed Do's attention to Flores, who was standing at the southwest corner by the Chevron gas station. Both officers immediately exited the police SUV and took cover behind their respective car doors. Do ordered Flores to get on the ground. Flores moved to a nearby light pole and appeared to use it as cover. Flores raised and aimed his handgun at Do and fired a round, striking the passenger door of the police SUV, behind which Do was taking cover.



Do's BWV depicting Flores aiming his handgun immediately before Flores fired a round.

Immediately after Flores fired, both officers returned gunfire. Tahuite fired five rounds from an approximate distance of 46 feet. Do fired four rounds from an approximate distance of 41 feet. Flores fell to the ground with the handgun still in his right hand. Do's BWV depicts Flores laying on his left side. Flores then fully extended his right arm up and backwards, pointing the handgun toward the officers. In response, Do fired one additional round from his service weapon at Flores.<sup>2</sup> Flores stopped pointing his handgun at the officers.



Do's BWV depicting Flores extend and point a handgun backward before Do fired a final round.

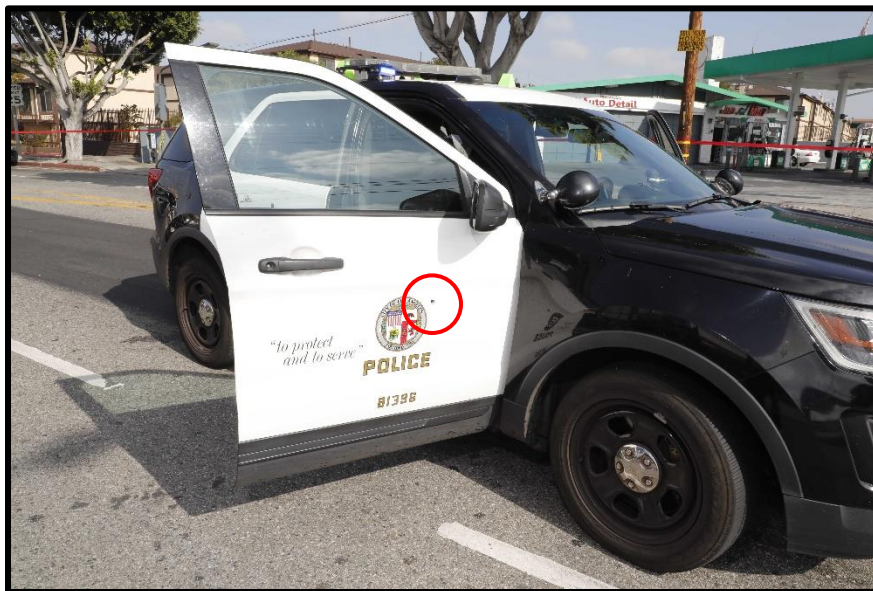
Do gave Flores several more commands to, "Drop the gun!" Flores threw the handgun several feet away from his head into the street. Flores then threw a knife with his other hand in the same direction into the street. Flores was later pronounced dead at the scene.

After the shooting, Flores' handgun was secured and photographed. It was examined by a criminalist and identified as a 9mm semiautomatic pistol. The slide of the pistol was locked back, the hammer was cocked and the safety was off. One discharged cartridge case was

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<sup>2</sup> The officers' service weapons were examined, and along with the discharged cartridge casings at the scene, it was determined that each officer fired a total of five rounds.

retrieved from the scene, which was determined to be fired from the pistol.<sup>3</sup> Neither the pistol nor the inserted magazine was loaded with additional ammunition.



Bullet impact on the passenger side door of the police SUV.



Flores' semiautomatic pistol photographed at the scene.

On April 27, 2019, an autopsy was conducted, and the medical examiner determined that Flores “died as a result of gunshot wounds of the torso.” Toxicological analysis of Flores’ blood determined that he had a .059 grams percent blood alcohol content. His blood also tested positive for methamphetamines.

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<sup>3</sup> The pistol had been reported stolen in December 2018.

## LEGAL ANALYSIS

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 505. 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. *Id.* If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

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, 396-397.

Tahuite and Do responded to radio communications relaying information about a man armed with a gun and a shooting that had just occurred. The officers received updated information that the man had assaulted another person with a gun at the intersection of Figueroa Street and Gardena Avenue. When Tahuite and Do arrived at the intersection, they saw Flores near the Chevron gas station. Flores appeared to take cover in anticipation of a gunfight as the officers exited the police SUV. Flores pointed and fired one round from his semiautomatic pistol at Do. In response, Tahuite and Do fired their service weapons in defense of their lives. Flores fell to the ground.

Unbeknownst to the officers at that time, Flores had fired the last round of loaded ammunition. From his position on the ground, Flores again pointed the barrel of his handgun in the direction of the officers. Do reasonably believed that Flores would fire another round at him. The fact that the gun was later determined to be unloaded does not alter the reasonableness of Do's actions. Do fired an additional round to stop the deadly threat he reasonably believed Flores continued to pose.

## CONCLUSION

We conclude that Officer Tahuite and Officer Do's use of deadly force was legally justified in self-defense and the defense of each other. We are closing our file and will take no further action in this matter.