

**Officer Involved Shooting of Daniel Salinas  
and Andrew Guerrero  
Los Angeles Police Department**

**Officer Jenny Potts, #36240**

**J.S.I.D. File #18-0208**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**April 29, 2020**

## MEMORANDUM

TO:                   COMMANDER TIMOTHY NORDQUIST  
Los Angeles Police Department  
Force Investigation Division  
100 West First Street, Suite 431  
Los Angeles, CA 90012

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

SUBJECT:           Officer Involved Shooting of Daniel Salinas and Andrew Guerrero  
J.S.I.D. File #18-0208  
L.A.P.D File #F034-18

DATE:               April 29, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 20, 2018, non-fatal shooting of Daniel Salinas and Andrew Guerrero by Los Angeles Police Department (LAPD) Officer Jenny Potts. We have concluded that Officer Potts acted in lawful self-defense and the defense of another when she fired her duty weapon.

The District Attorney's Command Center was notified of this shooting on May 21, 2018, at approximately 4:41 a.m. The District Attorney Response Team (DART) responded to the location, where they received a briefing and walk-through of the scene.

The following analysis is based on investigative reports, records, recorded interviews, crime scene photographs and diagrams, video evidence, ballistic and other reports submitted to this office by LAPD Force Investigation Division (FID). The compelled statement of Potts, if any exists, was not considered for this analysis.

### **FACTUAL ANALYSIS**

On May 20, 2018, LAPD Officer Jenny Potts and her partner, Officer Christina Oka, were assigned to patrol the area of Highland Park. Oka was driving a marked, black and white police sport utility vehicle (SUV). Both officers were wearing full uniforms. At approximately 11:58 p.m., Oka and Potts were stopped at a Shell gas station, located at 5137 North Figueroa Street, when they observed a 1999 white, four-door Honda Civic quickly exit the Chevron station across the street and turn right, southbound onto Figueroa Street. The officers exited the Shell station and followed the Honda on Figueroa Street while Potts conducted a license plate inquiry on the Mobile Digital Computer (MDC). As the officers waited for the results, the Honda suddenly accelerated and turned left onto Echo Street.

Oka followed the Honda eastbound on Echo Street. Officers received information on the MDC that the Honda was reported stolen. Potts illuminated the interior of the Honda with a spotlight, revealing a male driver, later identified as Daniel Salinas, and a male passenger, later identified as Andrew Guerrero. The Honda accelerated along Echo Street and failed to stop at several stop signs. Potts broadcast they were following a “Code 37” (stolen) vehicle and requested backup and an airship. Potts activated the SUV’s forward facing, red and white rotating lights and sirens.

The Honda failed to stop and turned left, travelling northbound on North Avenue 52. As the Honda was crossing Figueroa Street, Guerrero suddenly leaned his upper torso out of the passenger-side window, turned towards the police SUV, and pointed a shotgun directly at the officers. Oka believed Guerrero fired the shotgun at the officers. In response, Potts fired her 9mm semiautomatic duty weapon from the passenger-side window towards the Honda. Oka continued following the Honda northbound on North Avenue 52 and broadcast, “Shots fired! Officer needs help!”

Salinas drove into on-coming traffic in the southbound lane of North Avenue 52, passing several vehicles. Salinas failed to stop at the stop sign at Avenue 52 and Monte Vista Street. After crossing Monte Vista Street, Guerrero again leaned out of the passenger-side window, pointed the shotgun towards the officers and fired. Potts returned fire. Guerrero briefly sat back into the passenger side before leaning back out of the window and again firing the shotgun at the officers. Potts continued to return fire. Salinas failed to stop at the stop sign at Granada Street, continued driving and turned left onto Aldama Street without stopping at the posted stop sign.

As Oka followed the Honda westbound onto Aldama Street, Potts removed the police shotgun from their rack and fired twice at the Honda. The Honda failed to stop at the stop sign at the end of Aldama Street and turned left, southbound on North Avenue 50. Potts fired another shotgun round at the Honda. Oka attempted to follow the Honda onto North Avenue 50, but lost control of the police SUV and collided with the west curb of North Avenue 50. The Honda continued southbound on North Avenue 50 and turned right onto Monte Vista Street.

At approximately 12:07 a.m., Officers Gabriel Rivas and Rodolfo Lopez detained Salinas at Sycamore Terrace and Figueroa Street. Officers recovered two live yellow Winchester shotshells from Salinas’ pant pocket. Officers located a shotgun hidden in the bushes along Sycamore Terrace.<sup>1</sup> Salinas had two small, superficial wounds on his back consistent with being struck by shotgun pellets.

At approximately 12:10 a.m., Officers Jorge Juarez and Carlos Quintero detained Guerrero at North Avenue 52 and Marmion Way.<sup>2</sup> Guerrero did not have any injuries. At approximately 12:12 a.m., officers located the abandoned Honda at the dead end on Joy Street near Monte Vista Street.<sup>3</sup>

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<sup>1</sup> The shotgun was recovered approximately .1 mile from where officers detained Salinas.

<sup>2</sup> This location is approximately .3 miles from Monte Vista Street and North Avenue 50.

<sup>3</sup> Salinas was detained approximately .5 miles from where officers located the abandoned Honda.

## **Statement of Officer Oka**

On May 21, 2018, investigators interviewed Oka.<sup>4</sup> On the night of the incident, Oka and Potts were at the Shell gas station following up on a radio call. As she was pulling out of the Shell station's driveway, she saw a white Honda exiting the Chevron gas station across the street. The two men inside the vehicle (Salinas and Guerrero) made eye contact with her, and the driver quickly pulled out of the parking lot, which drew her attention. Oka was aware that older model Hondas are commonly stolen vehicles. Oka drove behind the Honda to try to get the license plate, but the Honda made a quick right turn onto Figueroa Avenue and sped off, as if trying to get away from the officers. Oka followed the Honda. Potts ran the license plate over the MDC, which came back to a stolen vehicle. As Oka followed the Honda on Echo Street, Potts broadcast they were following a stolen vehicle and requested backup. The Honda began driving at a high rate of speed and failed to stop at several stop signs. Potts activated the lights and sirens as Oka pursued the Honda.

As they were crossing Figueroa Street and North Avenue 52, Guerrero leaned his head and shoulders outside the window holding a shotgun, pointed it at the officers and fired. Oka heard a "pop" and saw fragments rise from the hood of the car. Oka believed she and her partner were going to be shot or killed. Oka asked Potts what she should do, and Potts told her to "Go! Go!" Potts returned fire as Oka pursued the Honda. During the pursuit, Guerrero repeatedly fired his shotgun at the officers. Oka estimated Guerrero fired at the officers five to ten times. Potts returned fire until Oka crashed the SUV on North Avenue 50.<sup>5</sup>

## **Statement of Victor R.**

On June 15, 2018, investigators interviewed Victor R.<sup>6</sup> Victor R. stated on the night of the incident, he was waiting at the bus stop in front of the 7-11 on Figueroa Street and North Avenue 52, when he observed a white, four-door Honda Civic travelling northbound on North Avenue 52 at a high rate of speed, being pursued by a police vehicle with lights and sirens activated. Victor R. observed a man lean his upper body out of the front passenger window of the Honda, turn 180 degrees back towards the police vehicle holding a black handgun, aim directly at the police and shoot at the police vehicle. Victor R. believed the man fired three to four times at the officers. The officers returned fire as they pursued the Honda northbound on North Avenue 52. Victor R. heard three or four additional gunshots as the police vehicle followed the Honda north towards the Goldline.<sup>7</sup> The two vehicles made a left turn and continued out of Victor R.'s sight.

## **Statement of Jose V.**

On May 21, 2018, investigators interviewed Jose V. Jose V. said that he was stopped at a red light at Monte Vista Street and North Avenue 50, when a white Honda Civic drove quickly past

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<sup>4</sup> This interview was recorded. Oka reviewed her body worn video (BWV) and the Digital In-car Video System (DICVS) prior to the interview.

<sup>5</sup> Oka estimated Potts returned fire seven to ten times with her handgun and three times using a shotgun.

<sup>6</sup> This interview was recorded.

<sup>7</sup> The Goldline tracks run along Marmion Way across North Avenue 52.

him, almost colliding with his vehicle, made a right turn on Monte Vista Street and stopped.<sup>8</sup> A young man with a moustache, wearing a blue zipped hoodie and a black hat, exited the front passenger side of the Honda and ran down Monte Vista Street towards Marisol Street. The man was carrying an object as he ran from the Honda. The Honda sped away in the same direction as the man who exited. Jose V. turned left onto North Avenue 50, where he observed the police SUV on the sidewalk and spoke with a female officer.

### **Statement of Guerrero**

On May 21, 2018, investigators interviewed Guerrero.<sup>9</sup> Guerrero initially denied being in the Honda that night, then admitted Salinas, who he knew as “D Boy” from the “Avenues” gang, picked him up in the Honda and took him to the gas station to get gas. Guerrero saw two female officers parked across the street. Guerrero admitted hanging out of the passenger window holding a shotgun but claimed he did not fire it and did not aim at the officers. Guerrero said, “It went- it went off and but I wasn’t going it’s not like I was looking back aiming it or nothing like that.” Guerrero said, “The first one was an accident. After that, it was just the two in the air.” Guerrero said he tried to jump out of the Honda and finally exited after Salinas turned onto Monte Vista Street.

### **Body Worn Video (BWV)<sup>10</sup>**

Oka’s body worn video (BWV) begins recording as the SUV is making a left turn onto North Avenue 52.<sup>11</sup> The BWV and audio is activated as the SUV approaches the intersection of North Avenue 52 and Figueroa Street. The SUV’s forward-facing, rotating lights and sirens are activated. Oka suddenly screams and the video shifts upward towards the ceiling. Oka asks Potts, “What do we do?” Potts responds, “Go! Go! Go!” and Oka continues driving northbound on North Avenue 52. Potts discharges two 9mm rounds from her passenger side window.<sup>12</sup> Oka broadcasts, “Shots fired! Shots fired! Officer needs help.” Potts discharges several additional 9mm rounds from the passenger side window. Potts asks Oka for the shotgun. Oka broadcasts, “I think he has a shotgun, the passenger on the right... We’re turning left on Aldama.” Potts fires two shotgun rounds from the passenger side window. Oka broadcasts that there are two male passengers in the front. Potts fires one additional shotgun round. Oka turns left onto Avenue 50 and crashes against the sidewalk.

### **Digital In-car Video System (DICVS)**

The DICVS is activated at approximately 11:58 p.m., as the police SUV turns left onto Figueroa Street from North Avenue 52.<sup>13</sup> The Honda drives in the right lane of Figueroa Street as the officers’ SUV drives slightly behind in the left lane. The Honda moves into the left lane in front of the SUV, then suddenly makes a left turn onto Echo Street. The officers follow as Potts

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<sup>8</sup> This interview was recorded.

<sup>9</sup> This interview was recorded. During the interview, investigators gave Guerrero Miranda warnings.

<sup>10</sup> Potts was equipped with BWV, but the battery was not charged and did not capture the incident.

<sup>11</sup> Oka’s BWV is positioned at chest-level, facing the steering wheel. The first eleven seconds of the BWV has video but no audio.

<sup>12</sup> Investigators noted the BWV shows one to two of Potts’ rounds may have struck the SUV’s right spotlight.

<sup>13</sup> There is no audio for the first 1:10 minutes of the video. The audio begins at approximately 11:59:13 p.m.

shines a spotlight into the Honda. The Honda accelerates and fails to stop at two more stop signs. The Honda turns left onto North Avenue 52, failing to stop at another stop sign. The officers follow and begin to close the distance with the Honda.<sup>14</sup> As the Honda crosses Figueroa Street, Guerrero leans his entire upper torso out of the passenger window, turns his body back towards the SUV, and points a shotgun directly at the officers.<sup>15</sup>



DICVS showing Guerrero leaning out of the Honda holding a shotgun crossing Figueroa Street.

The Honda continues travelling northbound on North Avenue 52. As the police SUV crosses Figueroa Street and drives past the Chevron station, debris flies up from the right side of the video screen. The Honda drives into on-coming traffic and maneuvers around several moving vehicles at the intersection of Marmion Way. Oka broadcasts, "Shots fired! Shots fired! Officer needs help." The Honda fails to stop at the stop sign at Monte Vista and continues speeding along North Avenue 52. Guerrero leans out of the passenger window again and fires back at the officers. A muzzle flash can be seen at least once as Guerrero fires at the officers.

<sup>14</sup> The SUV's rotating lights and sirens are activated along North Avenue 52.

<sup>15</sup> There is no audio at this point of the video.

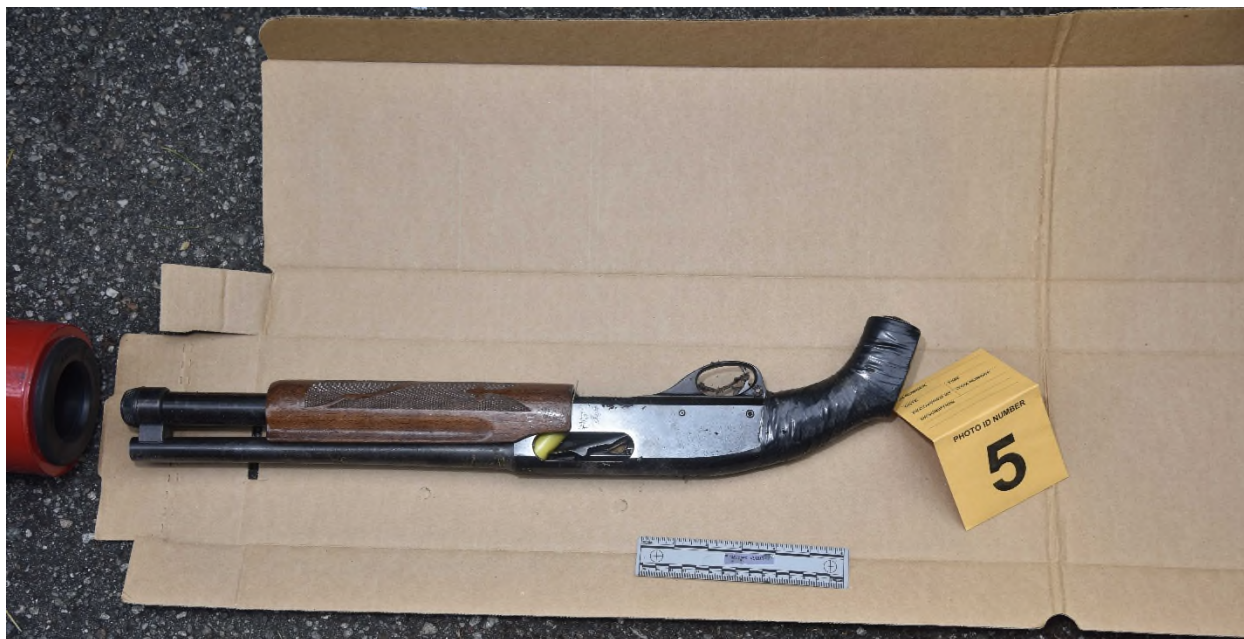


Guerrero firing at officers from the Honda along North Avenue 52.

Potts returns fire. Guerrero leans his torso out of the Honda several times and shoots back at the officers. A muzzle flash can be seen at least once as Guerrero fires. The Honda fails to stop at the stop sign at Granada Street and drives on the wrong side of the street. Potts asks Oka for the shotgun. Oka broadcasts, "I think he has a shotgun, the passenger on the right... We're turning left on Aldama." The Honda turns left, failing to stop at another stop sign at Aldama Street. Potts fires two shotgun rounds from the passenger side window. Oka broadcasts there are two male passengers in the front. As the Honda turns left onto North Avenue 50 without stopping at the stop sign, the passenger door swings open. Potts fires an additional round. Oka attempts a left turn onto Avenue 50 but crashes against the west sidewalk.

### **Ballistic Evidence**

LAPD criminalists recovered a 20 gauge Remington Shotgun with a sawed-off barrel and sawed-off stock from the bushes on Sycamore Terrace. The shotgun had one live yellow Winchester shotshell lodged inside the chamber.



The Remington shotgun recovered on Sycamore Terrace.

Three yellow expended Winchester shotshells were recovered from inside the passenger side of the Honda, which criminalists determined were fired from the Remington shotgun recovered on Sycamore Terrace. Criminalists recovered three shotshell waddings along North Avenue 52 between Monte Vista and Granada Street, which criminalists determined were consistent with the contents of the three yellow expended Winchester shotshells recovered inside the Honda. Criminalists also recovered one yellow expended Winchester shotshell from North Avenue 50.

Two live yellow Winchester shotshells were recovered from Salinas' pant pocket, which appear consistent with the yellow expended Winchester shotshells recovered inside the Honda, the live yellow Winchester shotshell recovered inside the shotgun, and the yellow expended Winchester shotshell recovered on North Avenue 50.

Criminalists recovered copper and lead fragments along North Avenue 52 between the driveway of the Chevron gas station and the 300 block of North Avenue 52. Criminalists recovered one fired bullet of unknown caliber along North Avenue 52 between Granada Street and Aldama Street. Criminalists recovered a lead and a copper fragment a few houses north of the recovered bullet.

At the beginning of her shift, Potts' 9mm Beretta semiautomatic pistol was loaded with sixteen rounds. Criminalists recovered eight 9mm casings along North Avenue 52 between Figueroa Street and Granada Street, consistent with the ammunition in Potts' duty weapon. After the incident, Potts' 9mm contained seven rounds. The investigation determined Potts likely discharged nine rounds from her duty weapon during the incident.

At the beginning of the shift, the 12 gauge Remington 870 pump-action shotgun was loaded with four rounds. After the incident, the shotgun had one round remaining in the chamber.



Criminalists recovered three expended 12 gauge shotshells along Aldama Street, consistent with the ammunition in Potts' shotgun.

Criminalists were unable to identify any shotgun impacts to the police vehicle. Criminalists inspected the Honda and identified the trajectory of two shotgun pellets that entered through the trunk and continued through the driver's seat.



Trajectory of two shotgun pellets through the driver's seat of the Honda.

### **Other Evidence**

A black zip up hoodie and a black mask were recovered on Joy Street. A black, disposable glove was located inside the hoodie. DNA profiles consistent with the DNA profile of Salinas, which occur approximately once in greater than one septillion unrelated individuals, were obtained from both the mask and the glove.

Salinas had two small wounds to his back consistent with two perforating impacts from shotgun pellets in the Honda's driver's seat. Salinas was examined and treated at the Metropolitan Detention Center [REDACTED].



Photograph of two superficial wounds to Salinas' back.

Guerrero and Salinas were arrested and charged in case BA468263 with attempted murder, in violation of Penal Code section 664/187(a); assault with a firearm against a peace officer, in violation of Penal Code section 245(d)(1); shooting at an occupied motor vehicle, in violation of Penal Code section 246; and possession of a firearm by a felon, in violation of Penal Code section 29800(a)(1). Salinas was also charged with evading a police officer, in violation of Vehicle Code section 2800.2, and driving a vehicle without consent, in violation of Vehicle Code section 10851(a). On February 24, 2020, Salinas and Guerrero were convicted of all charges. Sentencing is scheduled for May 28, 2020.

## 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 she or others were in imminent danger of great bodily injury or death. Penal Code section 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.

In protecting himself or another, a person may use all the force which she believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470.

A police officer may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime. Penal Code section 835a. An officer “‘may use all the force ‘that appears to him as a reasonable man to be necessary to overcome all resistance, *even to the taking of life,*’ ... the resistance must be such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146 (quoting *People v. Bond* (1910) 13 Cal.App.175, 189-190). The officer may use no more force than would appear necessary to him as a reasonable person. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.

California law permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. *People v. Ceballos* (1974) 12 Cal.3d 470. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

After officers initiated a felony pursuit of the stolen Honda, Guerrero leaned out of the passenger window and fired a shotgun directly at the officers at least four times. In response and in fear for her life and her partner’s life, Potts returned fire. The evidence supports the conclusion that Potts was reasonably in fear for her safety and the safety of another, Oka, when she used deadly force against Guerrero and Salinas. Potts’ use of deadly force is also justified because she was attempting to arrest Guerrero and Salinas for committing a forcible and atrocious felony threatening death or bodily harm, namely, the willful, attempted murder of Potts and Oka.

## **CONCLUSION**

We find that Officer Potts acted in lawful self-defense and the defense of another when she used deadly force against Guerrero and Salinas. Potts also acted lawfully using deadly force attempting to arrest a person for a forcible and atrocious felony threatening death or serious bodily harm. We are closing our file and will take no further action in this matter.