

**Officer Involved Shooting of Kenneth Rosales**

**Los Angeles Police Department**

**Officer Kevin Chavez #41195**

**Officer Jorge Blanco #41341**

**J.S.I.D. File #19-0220**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**August 10, 2020**

## MEMORANDUM

TO:                   COMMANDER TIMOTHY NORDQUIST  
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:           Officer Involved Shooting of Kenneth Rosales  
J.S.I.D. File #19-0220  
L.A.P.D. File #F023-19

DATE:               August 10, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 27, 2019, non-fatal shooting of Kenneth Rosales by Los Angeles Police Department (LAPD) Officers Kevin Chavez and Jorge Blanco. We have concluded the officers acted lawfully in self-defense, in defense of others and to stop a fleeing felon.

The District Attorney's Command Center was notified of the shooting at approximately 11:07 p.m., on May 27, 2019. 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, transcripts of recorded interviews, firearm analysis reports, crime scene diagrams, photographs, video evidence, and witness statements submitted to this office by LAPD Force Investigation Division (FID). Officers Chavez' and Blanco's compelled statements were considered as part of this analysis.

### **FACTUAL ANALYSIS**

On Monday, May 27, 2019, LAPD Officers Hernan Farias and Taylor Smith responded to a call of a shooting just having occurred. As they headed to the call from the station, the call was updated by Communications Division (CD) to, "Harbor units, your shooting just occurred...is now an ambulance shooting just occurred, possibly one victim down."<sup>1</sup> Harbor Area Gang Enforcement Division Officers Jorge Blanco and Kevin Chavez heard the update and also

---

<sup>1</sup> Multiple calls were received by 9-1-1 reporting shots fired. One caller, Brandon C., reported hearing gunshots and then observing a man in the parking lot of his apartment complex armed with a rifle. The man, later identified in a six-pack lineup as Kenneth Rosales, had blood on his clothing. Subsequent investigation determined Rosales had shot and killed an individual. Rosales was charged with this murder as well as being a felon in possession of a firearm in case NA112025.

responded to the call. The officers activated their Body Worn Video (BWV) while driving to the location on West 254<sup>th</sup> Street. As Blanco drove their black and white hybrid police vehicle to the location, CD broadcast a description of the suspect as “a male Hispanic, possibly mid-30s, bald, wearing an orange, blue and white striped shirt, holding a rifle in his left hand, last seen walking out of an alley.”

Blanco and Chavez arrived in the area at approximately 9:31 p.m., and began visually checking the nearby alleys for the suspect. At approximately 9:32 p.m., Blanco’s BWV depicts him observing Rosales on the north sidewalk of 253<sup>rd</sup> Street, holding what appears to be a rifle.



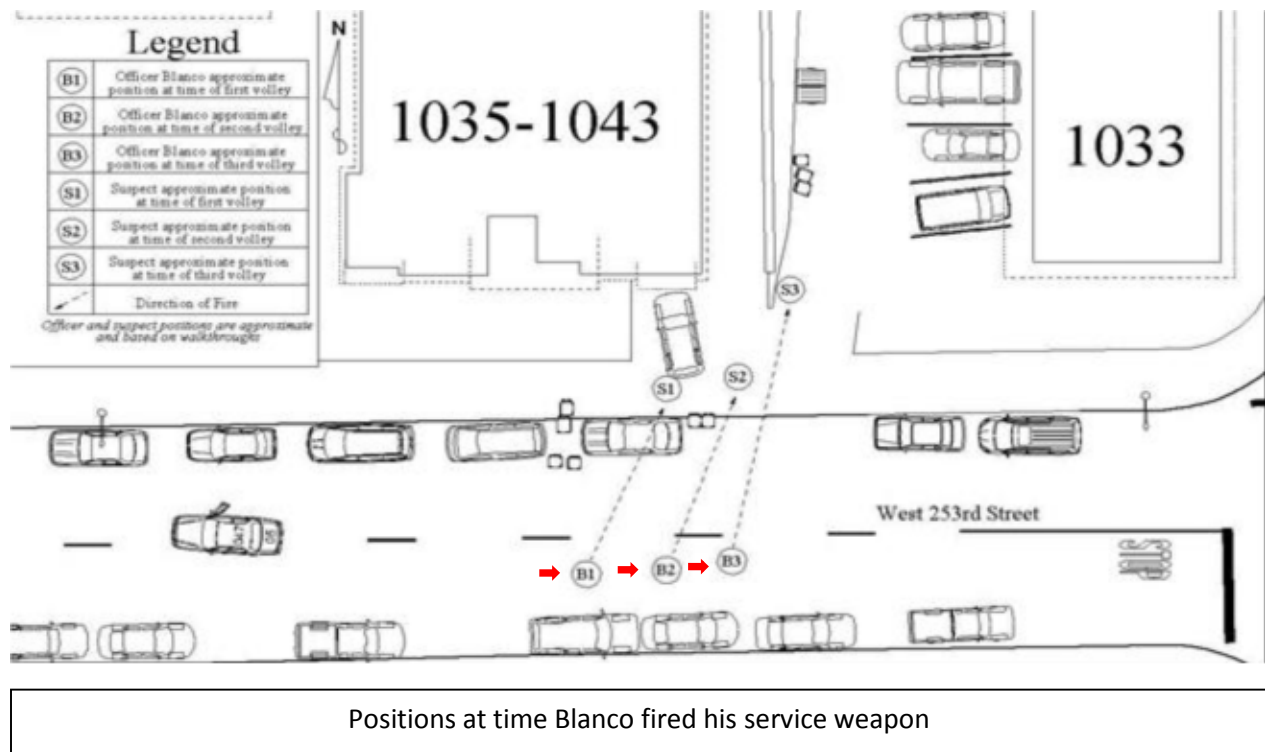
Still from Blanco’s BWV of Rosales walking while armed with a rifle

Rosales matched the description provided by CD. Blanco yelled to Chavez, “There!”<sup>2</sup> Rosales then began running east towards the officers. Blanco stopped their police vehicle and both officers immediately exited as Rosales was passing them. Audio from Blanco’s BWV captured Blanco yelling to Rosales, “Hey, let me see your fucking hands!” followed by, “Drop it! Drop it!” Chavez’ BWV also captured the officers exiting their vehicle and Chavez ordering Rosales to drop the firearm. Rosales continued running, ignoring the officers’ commands, then raised the

---

<sup>2</sup> In his compelled statement, Blanco indicated he immediately recognized that Rosales matched the description of the suspect and was armed with a rifle. Chavez also stated in his compelled statement that he immediately recognized Rosales as matching the description and saw him with the rifle. Blanco and Chavez further stated due to the number of callers reporting a shooting, they believed Rosales had shot the rifle at someone, rather than it being a false alarm.

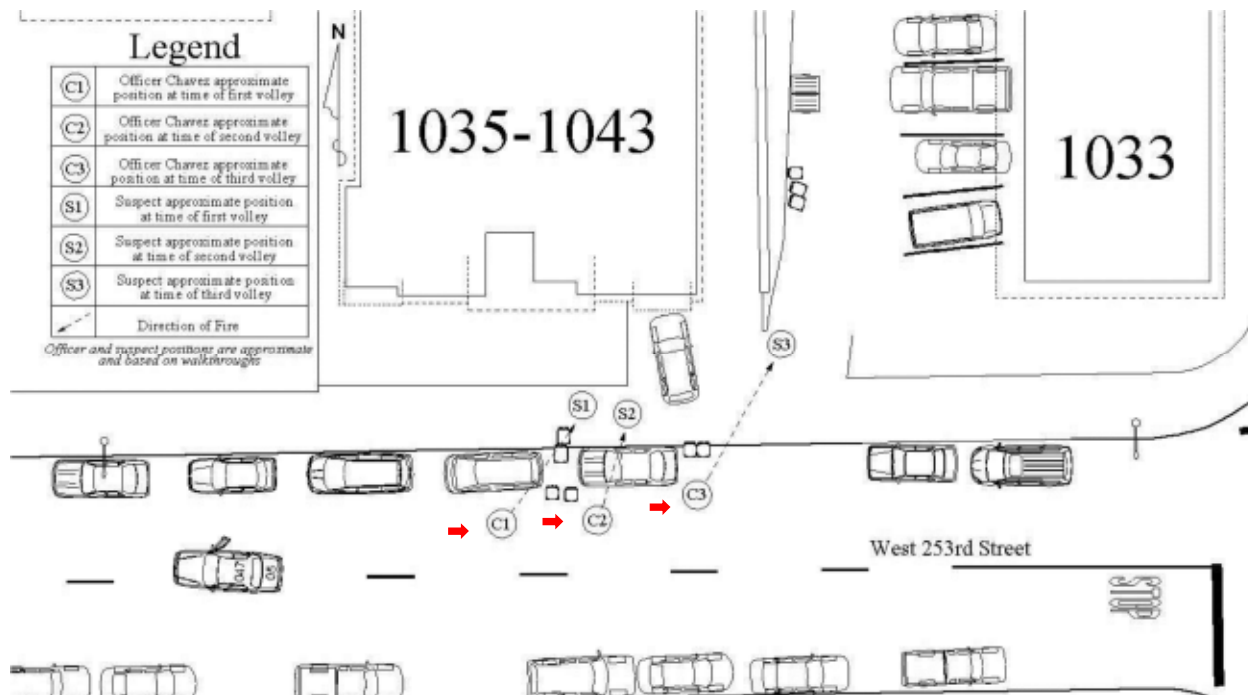
rifle in Blanco and Chavez' direction.<sup>3</sup> Rosales ran as he continued to point the rifle in the officers' direction. Blanco's BWV captured him firing eight rounds from his service weapon at Rosales.



Chavez' BWV captured him yelling for Rosales to drop the weapon, then firing a total of 11 rounds from his service weapon.<sup>4</sup>

<sup>3</sup> The movements are not clear on the BWV due to lighting conditions, blurring caused by the rapid movement of Blanco and Rosales and Blanco's flashlight intermittently shining into the lens of his BWV. Blanco stated in his compelled statement that Rosales was holding the rifle with both hands and pointed it at him immediately before Blanco fired his service weapon. Blanco was in fear for his life due to the high caliber weapon Rosales was pointing at him. Blanco stated he fired several volleys as he pursued Rosales because Rosales continued to point the rifle in his direction, ignoring commands to drop the weapon. Blanco initially believed Rosales was hit in the second to last volley, due to Rosales falling to the ground. Blanco said, "The suspect goes down. I don't know if he's hit because when he goes down, he hits the floor and gets back up like nothing had happened."

<sup>4</sup> Chavez' BWV is dark due to lighting conditions, making it very difficult to observe Rosales' movements or details of the incident. In his compelled statement, Chavez indicated he fired his weapon after Rosales pointed the rifle at him and Blanco, ignoring commands to, "Stop!" and, "Drop it!" Chavez continued to chase Rosales, and fired his weapon again when he "saw his barrel come up again." Chavez was in fear because, "This guy is still pointing a gun at me. He's not stopping."



Positions at time Chavez fired his service weapon

Blanco's and Chavez' BWVs then depict a foot pursuit of Rosales. Blanco can be heard continuing to order Rosales to drop the gun and yelling to other responding officers that Rosales has a rifle. Chavez can also be heard on his BWV yelling, "He has a rifle! He has a rifle!" Additional officers joined in the foot pursuit at various locations. Ultimately, several officers were able to apprehend Rosales, which can be seen on Blanco and Chavez' BWVs as they run toward the location where Rosales is being detained.<sup>5</sup>

Once other officers apprehended Rosales, both officers' BWV's audio capture conversations regarding the location of the rifle. Blanco can be heard yelling, "Right here! Right here! Check for the rifle! He doesn't have it on him. No, he dropped it. He pointed it at us." Chavez says, "It's in the alley. The officer behind me saw where it was. I didn't see him drop it there. He pointed it at us."<sup>6</sup> Officer Jesse Rodriguez subsequently recovered the rifle from the alley where Rosales dropped it during the foot pursuit.

<sup>5</sup> Throughout the foot pursuit multiple officers can be heard commanding Rosales to drop the weapon, stop, and put his hands up. Rosales ignored all of the commands and continued running until one of the officers was able to push Rosales to the ground. Rosales continued resisting once on the ground, keeping his right hand tucked under his body, and attempted to bite the officers who were attempting to handcuff him according to Officer Mariko Jackson.

<sup>6</sup> After Rosales was arrested, Blanco was able to see his face and recognized him as a Barrio Harbor City Baby Locos gang member he had contact with on multiple occasions. Blanco did not recognize Rosales during the foot pursuit or shooting incident. Chavez did not recognize Rosales, but after the arrest he recalled having conducted a pedestrian stop a week prior with Blanco where Rosales was trespassing.



Locations associated with the incident



Rifle recovered from alley where it was dropped by Rosales

Rosales was transported to Harbor UCLA Medical Center where he was treated [REDACTED]

Rosales was interviewed by FID investigators at the hospital on May 29, 2019. After waiving his Miranda rights, Rosales stated he was drunk at the time of the incident. Rosales initially denied dropping the rifle, but later said, "I guess" when asked whether he had dropped it. Rosales admitted to having possessed the rifle for a couple of days prior to being shot. Rosales denied having committed the murder, but admitted to having fired the rifle "in self-defense" because he was being beaten up by multiple people. Rosales then requested an attorney and the interview was ended. At the time of the shooting, Rosales was on probation for resisting arrest.

A canvass of the neighborhood was conducted by FID investigators. Several witnesses were located who heard the gunshots, but no witnesses observed the officers firing their weapons.

The Digital In-Car Video Systems (DICVS) for all responding units were reviewed to see if any captured the officer involved shooting. Several contained audio recordings where gunshots could be heard, but none visually captured the shooting. Portions of the foot pursuit were also captured on DICVS, but none clearly depict Rosales carrying or pointing the rifle. No surveillance video from the area was recovered.



Rosales' rifle

Rosales' weapon was examined and found to be a black AR 15 type FMBUS rifle with a barrel length of approximately nine inches.<sup>7</sup> The rifle was found lying on its side with a magazine inserted and the action closed. Both the magazine and the firing chamber were empty. The rifle safety selector was in the firing position. Four discharged casings and two fired bullets consistent with the make and model of the weapon were found along the path of the foot pursuit with officers and later matched by ballistics to the rifle. Additionally, ballistics testing confirmed that the bullet retrieved from the murder victim was also fired from Rosales's weapon.<sup>8</sup>

## 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.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073, 1082; *see also*, CALCRIM No. 505.

<sup>7</sup> The rifle was determined to be a California Assault Weapon as described in section 30515(a) of the California Penal Code.

<sup>8</sup> Swabs were taken from the rifle for DNA comparison, but due to the complexity of the mixture of contributors the swabs were deemed unsuitable for interpretation. No latent fingerprints were found on the weapon.



In protecting himself or another, a person may use all the 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 the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] 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.

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

California law also 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. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. *Ceballos, supra*, 12 Cal.3d at 479. "An officer may use reasonable force to make an arrest, prevent escape or overcome resistance." *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516. When protecting the public peace, a police officer "is entitled to even greater use of force than might be in the same circumstances required for self-defense." *Id.*

In this matter, Blanco and Chavez responded to the location due to multiple calls of a shooting. When they arrived they observed Rosales wearing the same clothing described by one caller and carrying a rifle. Rosales ignored multiple commands to stop and drop the weapon, and began running towards the officers. After passing the officers, he continued running then pointed the rifle at both officers. Given those circumstances, each officer was reasonably in fear for his own safety and that of his partner.

Based upon the nature of the call, each officer believed that Rosales was a suspect in a shooting. As such, they were justified in using deadly force to capture him.

## **CONCLUSION**

We find that Officers Chavez and Blanco acted lawfully in self-defense, in defense of others and to stop a fleeing felon when they used deadly force against Kenneth Rosales. We are closing our file and will take no further action in this matter.