

**Fatal officer Involved Shooting of Robert Colvin
Los Angeles County Sheriff's Department**

**Deputy Jesus Chamorro, #531088
Deputy Nicholas Hernandez, #639944**

J.S.I.D. File #20-0187



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 24, 2023

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
Los Angeles County Sheriff's Department
Homicide Bureau
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Monterey Park, California 91755

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

SUBJECT: Fatal Officer Involved Shooting of Robert Colvin
J.S.I.D. File #20-0187
L.A.S.D. File #020-09658-1125-013

DATE: August 24, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 29, 2020, fatal shooting of Robert Colvin by Los Angeles County Sheriff's Department (LASD) Deputies Jesus Chamorro and Nicholas Hernandez. It is our conclusion that the deputies acted in lawful self defense and defense of others when they fired their duty weapons.

The District Attorney's Command Center was notified of this shooting on May 29, 2020 at approximately 8:35 p.m. The District Attorney Response Team did not respond to the location due to the ongoing civil unrest at that time.

The following analysis is based on reports, recorded interviews, photographs, and videos submitted to this office by LASD Homicide Bureau Investigators Mark Marbach and Michael Valento on February 8, 2021. The voluntary statements of both deputies were considered as part of this analysis. The deputies that were involved in this incident were not equipped with Body Worn Cameras nor did their patrol vehicle have a dashboard camera.

FACTUAL ANALYSIS

On May 29, 2020, Lancaster Station Deputies Jesus Chamorro and Nicholas Hernandez were working patrol in a marked black and white Sheriff's Department patrol vehicle. Chamorro was the driver and Hernandez was the passenger. Both deputies were wearing LASD department issued uniforms.

An informant told Chamorro that Colvin was walking around armed with a firearm. As a result, the deputies patrolled his last known location to find him. As they drove eastbound on the 1700 block of West Avenue K, in the city of Lancaster, the deputies observed Colvin walking westbound on the south side of the street.

Chamorro pulled the patrol vehicle along the curb. As they pulled up alongside Colvin, Colvin bladed his body away from the deputies. The deputies exited their patrol vehicle and observed Colvin in possession of a firearm in his right hand. Both deputies attempted to subdue and disarm Colvin. As they struggled to control Colvin, both deputy involved shootings occurred. Colvin was struck by gunfire from both deputies.

After the OIS, Hernandez retrieved the firearm from the ground near Colvin, and Chamorro began to administer CPR to Colvin. Nearby civilians recorded the deputies' actions immediately after the OIS.

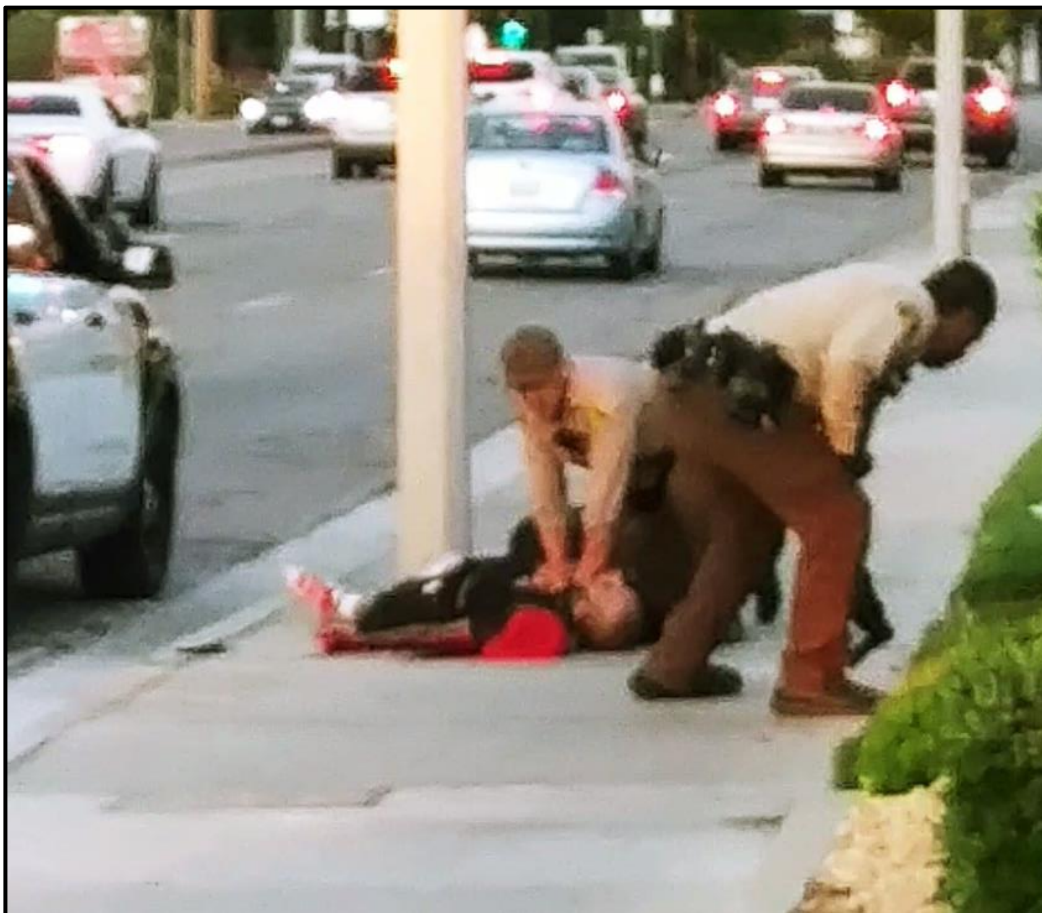


Figure 1: Hernandez retrieved Colvin's firearm while Chamorro administered CPR.

Los Angeles County Fire Department arrived on scene and took over life saving measures. Colvin was transported to Antelope Valley Hospital where he was pronounced dead by Emergency Room Doctor Petrick.

Chamorro was armed with a fully loaded 9 mm semiautomatic handgun with a maximum cartridge capacity of 18 rounds. After the OIS, the 9 mm handgun was loaded with 15 cartridges. Hernandez was armed with a fully loaded 9 mm semiautomatic handgun with a maximum cartridge capacity of 21 rounds. After the OIS, the 9 mm handgun was loaded with 11 cartridges. 12 casings were recovered at the scene.

On June 1, 2020 Deputy Medical Examiner Abubakr Marzouk performed a postmortem examination of Colvin's remains. The toxicology analysis revealed that Colvin had .86 microgram per milliliter of methamphetamine in his femoral blood, 2.2 microgram per milliliter of methamphetamine in his chest blood, .05 microgram per milliliter of amphetamine in his femoral blood, and .14 microgram per milliliter of amphetamine in his chest blood. The autopsy revealed that Colvin was struck eight times and died as a result of multiple gunshot wounds.

Colvin's Firearm

The firearm Colvin possessed was later determined to be a metal BB gun. The BB gun, however, was a replica of a 1911 steel semi-automatic handgun. The BB gun had "Colt Defender" inscribed on the side. See Figure 2.



Figure 2: The BB gun possessed by Colvin, made to look like a 1911 style semi-automatic handgun.

Jesus Chamorro's Statement

On May 29, 2020, Chamorro started his shift at 4:00 p.m. and Hernandez was his partner. They were assigned a black and white Ford Explorer and were both wearing department issued police uniforms.

Chamorro had prior contacts with Colvin and therefore Chamorro knew that Colvin was a felon currently on Post-Release Community Supervision (PRCS).¹ A week prior, Chamorro was advised by an informant that Colvin was bragging about being armed with a gun.

¹ On January 28, 2016, in case MA067685, Colvin pled no contest to a felony violation of Penal Code § 22210 and was sentenced to four years state prison.

About 30 minutes before this incident, Chamorro advised Hernandez about Colvin and that he was potentially armed with a handgun. Chamorro, however, was unsure about the reliability of this information. As such, the deputies' plan was to "keep it cool" if they happened to encounter Colvin during their shift.

At approximately 7:48 p.m., Chamorro was driving eastbound on West Avenue K when he observed Colvin walking on the street with an unknown female, later determined to be [REDACTED]. Chamorro pulled their patrol vehicle to the curb and stopped alongside Colvin.

When Hernandez greeted Colvin, Chamorro observed Colvin quickly turn to the left, "dip" his shoulder, and reach towards his waistband. This caused Chamorro to become fearful for his safety. Chamorro was concerned that because Colvin did not just flee, but instead turned his body away from the deputies, that he was arming himself. Chamorro believed he was a "sitting duck" inside the patrol vehicle so he yelled at Hernandez to exit the patrol vehicle. Chamorro placed the transmission into park, exited the patrol vehicle, and quickly walked around the rear of the vehicle towards Colvin.

As Chamorro rounded the back of the patrol vehicle, he observed Hernandez behind and slightly to the right of Colvin. Hernandez was holding onto the shoulder/torso area of Colvin in a "smothering" fashion. Chamorro approached and when he was about eight feet away, he observed Colvin holding a handgun in his right hand, with his arm extended, and the firearm pointed down. Chamorro believed his life was now in danger and he feared being killed by Colvin.

Chamorro yelled, "Gun!" about five to eight times in rapid succession to alert Hernandez that Colvin was armed. Colvin did not drop the gun and Chamorro became even more fearful for his and his partner's life. With Hernandez in such close proximity to Colvin, Chamorro did not have a "clear shot" and thus Chamorro grabbed hold of Colvin's upper right arm with both of his hands to attempt to control and disarm him. Chamorro struggled with Colvin's right side while Hernandez struggled with Colvin's left side. Chamorro planned to forcibly place Colvin's right arm behind his back and to "rip" the handgun from Colvin's hand.

Both deputies struggled to disarm Colvin for approximately five to ten seconds before Colvin was able to simultaneously disengage from both Hernandez and Chamorro. Chamorro fell back onto his knees or buttocks approximately four feet away from Colvin. Since Chamorro no longer had control of Colvin, Chamorro withdrew his service weapon.

Chamorro began to stand back up and he raised his weapon towards Colvin. Chamorro heard a single gunshot and believed that Colvin had fired his weapon. Chamorro believed both he and his partner's life were in danger, and as a result he fired his weapon two to three times at Colvin. Simultaneously, Chamorro heard Hernandez fire his weapon an unknown amount of times.

Colvin fell forward onto the sidewalk with his hands underneath his body. Colvin was no longer moving, but his eyes blinked, and he was looking towards Chamorro. After Colvin fell to the floor, Chamorro no longer perceived Colvin as a threat. At the same time, Chamorro heard one

more gunshot. Chamorro looked over to Hernandez, who was on one knee and not speaking. As a result, Chamorro believed that Colvin shot Hernandez.

After Chamorro checked Hernandez body to confirm he was not struck by gunfire, Chamorro lifted up Colvin's right arm and noticed that Colvin was still gripping the firearm with both hands underneath his body. With minimal force Chamorro was able to remove the handgun from Colvin's possession and place it on the ground.

Hernandez broadcasted over the radio that the officers were involved in a shooting and provided their location.

Chamorro turned Colvin over, and Hernandez picked up Colvin's handgun and secured it in their police vehicle. Chamorro stood over Colvin while he assessed his own injuries. Hernandez retrieved medical scissors from the vehicle and Chamorro began chest compressions.

LASD Deputies Benjamin Casebolt and Devin Musil arrived on scene and took over medical treatment of Colvin. Los Angeles County Fire Department arrived on scene and transported Colvin to Antelope Valley Hospital.

Nicholas Hernandez' Statement

On May 29, 2020, Hernandez started his shift at 4:00 p.m. He was designated as a unit that typically worked alone, however, due to the current civil unrest in the area, Chamorro was assigned as his partner. He had worked with Chamorro on two prior occasions. Hernandez and Chamorro were assigned a marked black and white Ford Explorer, and both were wearing standard department issued LASD police uniforms.

Approximately two hours into their shift, Chamorro briefed Hernandez about Colvin, who according to Chamorro's informant, was walking around armed with a firearm. Chamorro had prior contacts with Colvin, so Chamorro was aware that Colvin was on PRCS. While they continued their patrol, Chamorro received a call from the informant who confirmed that Colvin was presently staying at the "Lancaster Inn" and armed with a handgun.²

The deputies finished a call for service and decided to drive to the Lancaster Inn to attempt to locate Colvin. While driving eastbound on West Avenue K, the deputies saw Colvin with an unknown female, later identified as [REDACTED] walking westbound on the south sidewalk. The deputies pulled their patrol vehicle next to Colvin. Through the rolled down window, Hernandez observed Colvin change his direction and walk past the parked patrol vehicle.

Hernandez called out to Colvin and asked him where he was going. Colvin glanced in his direction and continued to walk westbound on the sidewalk. Chamorro, who had already exited the vehicle, told Hernandez to exit the vehicle stating, "Get out. Get out. Get out." Based on Chamorro's tone, Hernandez believe that Chamorro observed something that Hernandez had not, and he quickly exited their patrol vehicle.

² The Lancaster Inn is located at 43530 17th Street West and is approximately two tenths of a mile from the location of the OIS.

As Hernandez exited the vehicle, he observed Colvin walk faster, then pivot to the left, dip his left shoulder, and turn in a counterclockwise direction away from Hernandez.³ Hernandez could no longer see Colvin's hands so he "bear hug[ged]" Colvin's upper body for his protection. In response, Colvin flailed his arms and tried to break free from Hernandez' hold.

Chamorro came around the rear of the patrol vehicle and called out, "Gun. Gun. Gun. He's got a gun. He's got a gun."

Hernandez continued to struggle with Colvin until Hernandez lost his footing on the grass area of the sidewalk and stumbled. When Hernandez tripped, he pushed Colvin in the back to create more separation between them. Colvin stumbled forward and Hernandez observed Colvin holding a black semi-automatic pistol in his right hand.

Fearing that Colvin would turn and shoot Hernandez and/or Chamorro, Hernandez withdrew his service weapon and fired approximately seven to ten times. Hernandez stopped firing at Colvin when he believed Colvin was no longer a threat to him or Chamorro.

Since Hernandez saw Chamorro holding his firearm after the exchange and Hernandez heard additional gunfire during the exchange that was not his own, Hernandez believed Chamorro fired his service weapon as well.

Hernandez broadcast via his radio that they were involved in a shooting and requested Los Angeles County Fire Department to respond to their location to provide medical aid to Colvin.

Colvin was laying face down on the ground, with his hands underneath his chest. Hernandez provided cover for Chamorro, who located and removed Colvin's firearm from underneath his body. When Chamorro removed the firearm, he tossed it in a westerly direction on the sidewalk. Chamorro turned Colvin over and began CPR. Hernandez then retrieved the firearm from the sidewalk and placed it on the passenger side floorboard of their patrol vehicle.

██████████ Statement

██████████ was a passenger in a vehicle traveling Eastbound on Avenue K, approaching the 14 state route 14 highway, when she observed a sheriff SUV vehicle turn on its lights and make contact with Colvin.⁴ Simultaneously, ██████████'s vehicle pulled over on the same side of the street as the deputies, approximately 30 to 40 feet away. ██████████'s vehicle pulled over to allow their dog to urinate on the grassy area on the sidewalk.

While pulled over, ██████████ heard the deputies ordering someone to raise their hands and to lift their shirt. ██████████ initially thought the deputies might be speaking to her, so she raised her hands in reaction to their directions.

³ Simultaneously, the female began walking eastbound away from their location.

⁴ She identified Colvin by describing the tattoos on his face and body.

██████████ soon realized the deputies were speaking to Colvin. Colvin was uncooperative, he did not raise his hands, and he cursed at the deputies as he continued walking. ██████████ recalled hearing Colvin say, “Fuck you all!” and/or “Fuck you all motherfuckers!”

The deputies continued to try to deescalate the situation and asked Colvin multiple times to lift his shirt and expose his waistband area. ██████████ felt as though the deputies were doing their best to “not shoot” Colvin.

██████████ stated she felt uncomfortable observing Colvin’s behavior, so she directed her attention down to pick up after her dog. While she was looking away, she heard a loud “boom” which she realized was a gunshot. ██████████ stated she heard seven consecutive shots fired, but she did not observe the actual shots. ██████████ initially believed one of the deputies might have been shot.

After the shooting, she got back into the vehicle and prepared to leave. While seated in the vehicle, she looked back at the scene and observed the deputies performing CPR on Colvin.

██████████ Statement

██████████ acknowledged she was the female walking with Colvin prior to the shooting. ██████████ stated that on the day of the shooting, she was with Colvin at the Lancaster Inn where she had been staying for the past few days. ██████████ and Colvin hung out in ██████████ room with approximately five other people. This was the second time she met Colvin. ██████████ stated that Colvin could get around a bit on his own, however, she described him as blind and that he needed assistance to move around. At one point Colvin stated he wanted to go to the liquor store and ██████████ agreed to go with him.

As the two of them walked to the liquor store, Colvin held on to ██████████ for guidance. As they walked westbound on Avenue K, ██████████ saw a Sheriff’s Department SUV and stated to Colvin, “Oh shit, the cops.” ██████████ was unsure whether Colvin heard her at this time. The SUV then moved to the number one lane of eastbound Avenue K, pulled up next to them, and stopped.

██████████ stated a second time to Colvin, “The cops, the cops.” Colvin responded, “The cops,” then Colvin tried to run. The deputies exited their patrol vehicle and moved to take hold of Colvin. Colvin began wrestling with the deputies and reached for his waistband, as if Colvin was trying to retrieve something.

As they wrestled, they fell to the ground and Colvin continued to reach for his waistband. ██████████ stated she did not know for what Colvin was reaching.

Colvin was able to break free from the deputies and rolled from his stomach to his back. Colvin again reached for his waistband and ██████████ heard one of the deputies yell, “He’s got a gun!” The deputies then shot Colvin at close range “a lot.” When the deputies shot Colvin, ██████████ estimated they were two to three feet away from him. She stated one deputy was in front of Colvin and the other was behind and to the side of him.

Immediately after the shooting, ██████ fled eastbound on Avenue K and headed back to the Lancaster Inn. She fled to avoid law enforcement since she had an outstanding warrant for her arrest.

When ██████ was interviewed, she stated that she was not on the deputies' side and added, "Fuck them." ██████ however, stated she was just telling "straight up the truth" about what had occurred. She opined the deputies thought Colvin was reaching for a gun and were "probably in fear for their life and that's why they shot him."

Doctor ██████ Statement

Dr. ██████ is an ophthalmologist and she conducted an eye examination of Colvin on December 6, 2019. She specifically remembered Colvin because of his facial tattoos. Dr. ██████ told investigators that Colvin was completely blind in his left eye and legally blind in his right eye. However, she stated that Colvin was "ambulatory" in his right eye. Dr. ██████ stated that Colvin did not require any assistance to move about, walk, or complete tasks. As an example, Dr. ██████ explained that when Colvin arrived for his appointment, he was able to move about the office, from the front door area to the exam rooms, without any assistance. Finally, she told investigators that if Colvin was standing about four to five feet away from a deputy in uniform, that Colvin would "absolutely" have no issues identifying who was in front of him.

LEGAL ANALYSIS

Any person who has been convicted of a felony and who possess a firearm is guilty of a felony. Penal Code § 29800.

Any peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or overcome resistance. Penal Code § 835a(b).

California law permits any person to use deadly force in self defense or in the defense of others if that person actually and reasonably believes that he or others are in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *See also 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.

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 to defend against an imminent threat of death or serious bodily injury to the officer or to another person. Penal Code § 835a(c)(1)(A).

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 on 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 is taken into consideration. Penal Code § 835a(a)(4) and (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 this case, the deputies were informed that Colvin, a felon on post release community supervision, was walking around the city armed with a firearm. The deputies were also informed of Colvin's general geographic location and responded to that location in their patrol vehicle.

The deputies arrived at the location and observed Colvin walking down the street. In response the deputies pulled their vehicle next to him and attempted to detain Colvin to ascertain whether he was in fact in possession of a firearm.

Immediately upon confronting Colvin, Chamorro observed Colvin dip his left shoulder and reach for his waistband. Fearing for their safety, Chamorro yelled at Hernandez to exit the patrol vehicle and Chamorro quickly walked to the back of the vehicle and closed the distance to Colvin.

When Chamorro rounded the vehicle, he observed Hernandez wrestling with Colvin, and Chamorro observed Colvin holding a handgun in his right hand. Chamorro yelled "Gun!" multiple times and Colvin refused to drop the firearm. Chamorro became even more fearful for his and his partners life so he immediately engaged Colvin in an attempt wrestle the handgun away from him.

Chamorro was now on Colvin's right side and Hernandez was on Colvin's left side. Both deputies wrestled Colvin for about five to ten seconds before Colvin was able to suddenly separate himself from both Chamorro and Hernandez.

Although Colvin was only in possession of a BB gun, any reasonable peace officer would fear that the replica BB gun was in fact a real firearm it was meant to look like. As such, their belief Colvin was in possession of a real firearm was reasonable. From their perspectives, Colvin was in possession of a firearm, continually reached for it, refused to drop it when directed to do so, and finally refused to drop it when the deputies attempted to wrestle it away from him. Once Colvin freed himself from both deputies' grip simultaneously, it was reasonable for Chamorro and Hernandez to believe that deadly force was necessary to defend against an imminent threat of death or serious bodily injury.

CONCLUSION

Based on the totality of the circumstances, we find it was reasonable for Deputies Chamorro and Hernandez to believe their use of deadly force was necessary to defend against what they

reasonably believed was an imminent threat to their lives. This conclusion is not altered by the hindsight knowledge that the BB gun was not a firearm.