

**Fatal Officer Involved Shooting of Guillermo Amezcua
San Fernando Police Department**

**Sergeant Paul Ventimiglia, #10202, Officers Jonathan Zibli, #10473
Brittany Najera, #10389, Elon Kaiserman, #10491, J Robles, #10334,
and Christopher Lopez, #10508**

J.S.I.D. File #21-0145



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

September 8, 2022

MEMORANDUM

TO: CHIEF FABIAN VALDEZ
San Fernando Police Department
910 First Street
San Fernando, California 91340

CAPTAIN ANDREW D. MEYER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Fatal Officer Involved Shooting of Guillermo Amezcua
J.S.I.D. File #21-0145
S.F.P.D. File #21-0669
L.A.S.D. File #021-00044-3199-013

DATE: September 8, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 10, 2021, fatal shooting of Guillermo Amezcua by San Fernando Police Department (SFPD) Sergeant Paul Ventimiglia and Officers Jonathan Zibli, Brittany Najera, Elon Kaiserman, J Robles, and Christopher Lopez. We have concluded that they acted in lawful self-defense at the time they fired their weapons.

The District Attorney's Command Center was notified of this shooting on April 11, 2021, at approximately 12:37 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Lieutenant Scott Hoglund.

The following analysis is based on reports, recorded interviews, audio recordings, and photographs. These materials were submitted to this office by the LASD Homicide Bureau. The officers were equipped with body worn recording devices but not cameras. Investigators recovered video surveillance from two nearby residences but neither captured the officer involved shooting.

INTRODUCTION

On April 10, 2021, SFPD officers attempted to detain Guillermo Amezcua, the suspect in a shooting minutes prior. Amezcua produced a pistol and fired at them. Six officers returned fire, killing Amezcua. No officers or bystanders were injured.

Earlier, at 10:57 p.m., SFPD officers responded to a 9-1-1 call of a suspect, later identified as Amezcua, who fired two gunshots, near Brand Boulevard, and fled the scene in a gold Honda minivan. The officers were in uniform and driving marked patrol vehicles. En route to the shooting scene, Officers Zibli and Najera, in unit 21, happened upon Amezcua. He was sitting in the driver's seat of the gold van, parked along the curb of Harps Street near Fourth Street, about one mile from the shooting scene. Zibli and Najera parked their vehicle next to Amezcua's, in the roadway.

Officers Kaiserman and Wilmott arrived shortly after, in unit 26, followed by Robles and Lopez, in unit 24, and Sergeant Ventimiglia, in unit 30.

The officers exited their vehicles and took cover positions behind the van and across from its driver's side. For several minutes, Amezcua ignored Zibli's commands to show his hands and surrender. Body worn audio recording devices capture Zibli telling the other officers that Amezcua was reaching for and manipulating something. Sergeant Ventimiglia stated to investigators that Amezcua drew a pistol and fired two times at officers. In response, six of the seven officers present, including Ventimiglia, fired approximately 73 rounds at Amezcua, killing him.

Investigators recovered a 9mm pistol inside the van, wedged between the front passenger door and seat. A fired bullet, ballistically matched to Zibli's weapon, was lodged inside the grip. Additionally, investigators recovered two casings inside the van and two casings at the scene of the initial shooting. The four casings ballistically matched the 9mm pistol inside the van.

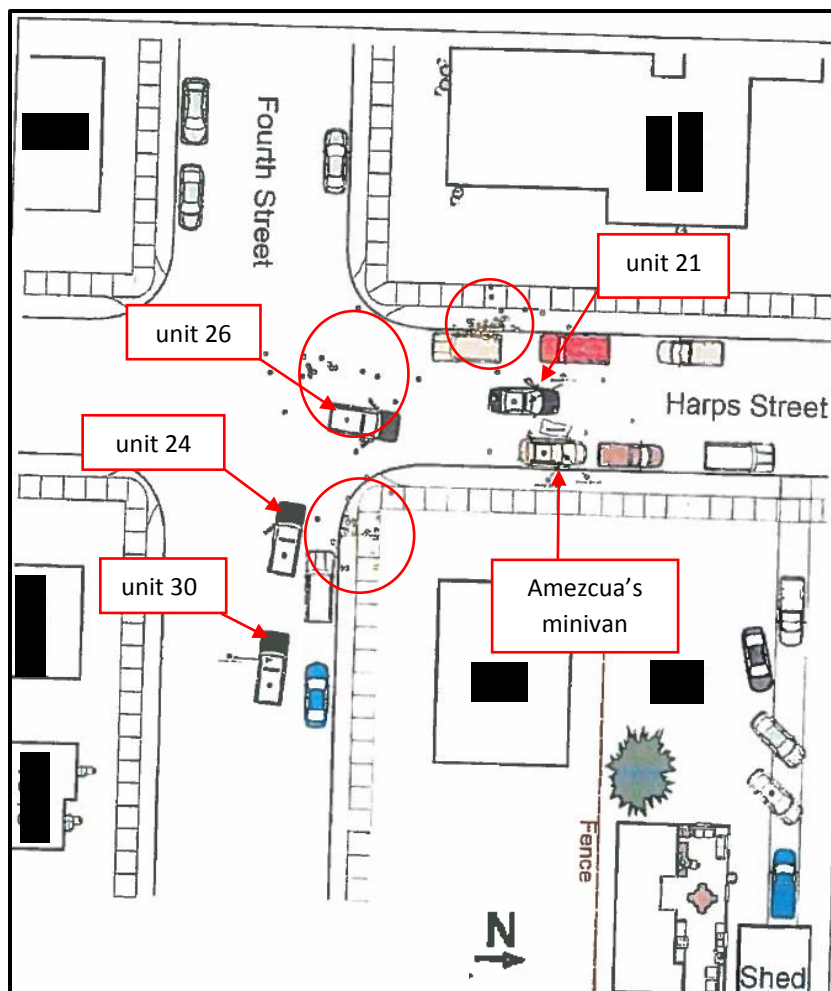


Figure 1: Diagram of the incident scene, showing the locations of the involved units—Zibli/Najera in unit 21, Kaiserman/Wilmott in unit 26, Robles/Lopez in unit 24, Ventimiglia in unit 30—and the primary groupings of casings, circled.

FACTUAL ANALYSIS

Only Sergeant Ventimiglia and Officer Wilmott provided voluntary statements.

Statement of Sergeant Paul Ventimiglia

The night of the incident, Ventimiglia was a patrol supervisor, in uniform and driving a marked single-person patrol vehicle, when he and other officers were dispatched to a “shots fired call,” around 11:00 p.m., on Brand Boulevard. The comments of the call provided a suspect and vehicle description. Ventimiglia heard over the radio that Officers Zibli and Najera were detaining a possible suspect, later identified as Amezcu, in his vehicle. Dispatch transmissions indicated Amezcu was uncooperative and refusing to show his hands. Ventimiglia responded to Zibli and Najera’s location.

Ventimiglia was the final unit to arrive. Zibli and Najera’s patrol vehicle was parked in the roadway on Harps Street, next to and parallel with Amezcu’s van, which was parked on the east

curb. Kaiserman and Wilmott's patrol vehicle was parked behind the van, in the intersection of Fourth and Harps Streets. Robles and Lopez's vehicle was just east of the intersection, parked on Fourth Street. Ventimiglia parked behind Lopez's vehicle and exited with a bean bag shotgun. He positioned himself at the northwest corner of the intersection, where he had a view of all the officers and Amezcua. Zibli was yelling for Amezcua to show his hands. Zibli yelled that Amezcua was reaching for something and moving around inside the van.

Ventimiglia saw Amezcua moving around inside the van but could not see his hands. Ventimiglia yelled that he was deploying a bean bag projectile. He yelled for Amezcua to show his hands. Receiving no response, he fired three bean bag rounds into the van. Amezcua still did not show his hands.

Ventimiglia heard a "large boom" from inside the van and saw accompanying muzzle flash toward officers positioned across the street (west) from the van. It was "unmistakable" that Amezcua was shooting at officers. Ventimiglia drew his service pistol, a Glock .45 caliber, and fired at Amezcua, emptying his thirteen-round clip and reloading. Ventimiglia ceased firing and heard Zibli yell that Amezcua was "down."

Statement of Officer Kevin Wilmott

Wilmott and Kaiserman were in uniform and driving in a marked patrol vehicle. Wilmott parked their patrol vehicle behind Amezcua's van. He and Kaiserman exited, took cover, and trained their service weapons on the van. Wilmott heard over the radio that Amezcua was uncooperative and was moving around inside the van.

After Ventimiglia fired bean bag rounds into the van, a period of silence followed. Wilmott was positioned behind the van; he could not see Amezcua. "All of a sudden that's when officers engaged." Wilmott did not fire his weapon or see what spurred the gunfire.

Officer Recording Devices

All officers were equipped with body worn recording devices that recorded audio but not video. Only Zibli and Ventimiglia recorded the incident. The recordings are largely the same. Zibli is heard multiple times ordering Amezcua to show his hands. Zibli says over the radio, apparently to units en route, that Amezcua is "manipulating something," so arriving units should "grab cover." Zibli tells an unidentified person that he's "reaching for something" and "won't put his right hand up." Several minutes pass.

After Ventimiglia is heard firing multiple bean bag rounds, Zibli says again, "He's reaching." Approximately four minutes into the recording, Zibli yells, "Hey dude, let me see your hands!" An extended barrage of gunfire is heard about one second later, until Zibli yells, "Cease fire! He's down! He's down!" And the shooting ceases.

Civilian Statements

Investigators interviewed Amezcua's l [REDACTED], [REDACTED], her [REDACTED], [REDACTED], and [REDACTED]'s neighbor, [REDACTED].

The original shooting incident, on Brand Boulevard, occurred outside [REDACTED]'s residence. [REDACTED] stated that, at 10:45 p.m., he returned home from a night out. As he parked his car, he noticed Amezcua sitting in a van in the alley between his home and [REDACTED]'s. He knew Amezcua was [REDACTED]'s boyfriend. Amezcua called out to [REDACTED] and motioned for him to come over to his van. When [REDACTED] declined, Amezcua held up a pistol and pointed it at the roof of his van. [REDACTED] said goodnight to Amezcua and walked inside his house. A few minutes later, he heard two gunshots. He called 9-1-1 and made a report. [REDACTED] later identified Amezcua in a sixpack photo lineup.

[REDACTED] lives with [REDACTED]. She stated she was inside her residence when, around 11:00 p.m., she heard two gunshots, looked outside, and saw Amezcua and her older brother, [REDACTED], standing next to each other. Amezcua said to [REDACTED], "You know I don't play. I almost shot you." Amezcua told [REDACTED] to tell [REDACTED] he "doesn't play." Then he drove away.

[REDACTED] stated she was not home when the shooting occurred, but [REDACTED] called and told her that Amezcua had shot at [REDACTED]. [REDACTED] called 9-1-1 and made a report.

Physical Evidence

Investigators recovered a 9mm pistol inside Amezcua's van, wedged between the front passenger seat and door. A fired bullet, sharing general rifling characteristics with Zibli's weapon, was lodged inside its grip. Two 9mm casings were at the initial shooting scene, on Brand Boulevard, and another two were inside the van. Ballistics testing revealed that the four casings were fired by the pistol inside the van. DNA testing revealed "very strong support" that Amezcua's DNA was on the pistol.



Figure 2: Item 103, the pistol wedged between the van's front passenger seat and door, with the grip facing up and the spring from the magazine visible after being struck by gunfire.



Figure 3: The pistol found inside the van, with damaged grip.

Seventy-three casings were located on Harps and Fourth Streets, 27 9mm casings, 31 .45 caliber casings, and 15 .223 caliber rifle casings. They were in three primary groupings: (1) along the west sidewalk of Harps Street, across the street from Amezcua's van; (2) in the intersection of Harps and Fourth Streets, near unit 26; and (3) along the north sidewalk of Fourth Street, near unit 24.

Five discarded pistol magazines were located at the scene: two Glock 9mm magazines, near the front passenger door of unit 26 (Kaiserman and Wilmott's unit); one Glock .45 caliber magazine, near the northwest corner of Harps and Fourth Streets; one Glock .45 caliber magazine and one Chip McCormack .45 caliber magazine, along the west sidewalk of Harps Street.

Robles and Kaiserman were armed with 9mm pistols; Lopez, Ventimiglia, and Zibli with .45 caliber pistols; and Najera with an AR-style rifle.

Bullet holes and strike marks were located on the driver's side and rear of Amezcua's van, as well as on the bumper, hood, and windshield of unit 21, which was parked in the line of fire from officers positioned west and south of the van. A fired round lodged inside unit 21's engine compartment shared general rifling characteristics with Zibli's weapon. Investigators did not identify any bullet impacts or fired bullets from Amezcua's pistol.

Various bullet holes and strike marks were located on uninvolved vehicles parked north of the incident, on Harps Street. Multiple rifle rounds struck the west wall of a residence on Harps Street, two of which penetrated the residence and were recovered inside its kitchen. No residents were injured.

Amezcua was pronounced dead at the scene, at 10:57 p.m., by fire department personnel. An autopsy was performed by Doctor Martina Kennedy of the Los Angeles County Coroner's Office. Doctor Kennedy ascribed the cause of death to multiple gunshot wounds. Amezcua suffered five gunshot wounds: graze wounds to his chest and back, wounds to the left side of his torso, rear right shoulder, and head. Three rounds were recovered from inside Amezcua's body, two had general rifling characteristics consistent with Robles and Kaiserman's service weapons, and one with Zibli's weapon.

THE LAW

California law permits deadly force in self-defense or defense of others if the person claiming the defense 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. If the person's beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 3470.

A peace officer is justified in using deadly force 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 section 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 section 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 section 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 section 835a(a)(4).

In evaluating whether a police officer's deadly force was reasonable, 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.

ANALYSIS

Officers were dispatched to a shots-fired emergency call. En route to that incident, Zibli and Najera encountered Amezcua, who matched the suspect description, sitting in a gold van, which matched the vehicle description. (Amezcua was later identified by witnesses as the shooter.) A several-minutes-long standoff—audio recorded—unfolded between Amezcua and seven officers who tried to detain him. Amezcua ignored the officers' repeated commands to surrender. The deployment of bean bag rounds similarly had no effect on him.

The evidence demonstrates that, after a period of silence, Amezcua raised a pistol and fired two rounds at officers positioned across Harps Street; Six officers returned fire in self-defense. Ventimiglia stated that he heard two gunshots from the van and saw accompanying muzzle flash. A pistol and two casings were later found inside Amezcua's van. Ballistics testing determined that the two casings, and two more recovered from the initial shooting scene, were fired by the pistol, on which Amezcua's DNA was found.

Amezcuca thus assaulted with a firearm multiple officers when they tried to detain him after he had committed a prior assault with a firearm, on Brand Boulevard, placing the officers in imminent danger of great bodily injury or death, and justifying their response.

CONCLUSION

We find that the officers acted lawfully in self-defense when they used deadly force against Guillermo Amezcuca.