

Non-Fatal Officer Involved Shooting of Luis Jimenez

Los Angeles Police Department

Officer Tiffany Gonzalez #42233

Officer Gustavo Jauregui #37940

J.S.I.D. File #21-0044



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

September 8, 2022

MEMORANDUM

TO: CAPTAIN RICH GABALDON
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: Non-Fatal Officer Involved Shooting of Luis Jimenez
J.S.I.D. File #21-0044
F.I.D. File #F004-21

DATE: September 8, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 29, 2021 non-fatal shooting of Luis Enrique Jimenez by Los Angeles Police Department (LAPD) Officers Tiffany Gonzalez and Gustavo Jauregui. We have concluded that Gonzalez and Jauregui acted in lawful self-defense at the time they fired their weapons.

The District Attorney's Command Center was notified of this shooting on January 29, 2021, at approximately 12:42 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Detective Doug Johnson.

The following analysis is based on reports, recorded interviews, photographs, and body worn video (BWV). These materials were submitted to this office by the LAPD Force Investigation Division.

INTRODUCTION

On January 29, 2021, at approximately 10:45 a.m., Jimenez drove [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] Gonzalez and Jauregui located Jimenez's pickup truck, parked in a Food 4 Less parking lot, [REDACTED]. As shown on Gonzalez's BWV, the officers parked behind Jimenez's truck, exited their vehicle, and ordered Jimenez to show his hands. Jimenez exited his truck and opened fire at the officers, according to a BWV statement Jauregui recorded at the scene, shortly after the incident.

Gonzalez fired 11 rounds at Jimenez; Jauregui fired five. Jimenez suffered two through-and-through gunshot wounds, one to the side of his torso, below the armpit, and one to his back, below the shoulder blade. A loaded derringer-style .38 pistol was recovered near Jimenez's truck.

Jimenez survived his injuries and consequently, on November 18, 2021, in case number LA094181, pleaded no contest to two felony counts of Penal Code section 245(d)(1) and one felony count of Penal Code section 422. He was sentenced to 16 years in state prison.

FACTUAL ANALYSIS

Statement of [REDACTED]

[REDACTED] car was parked some distance behind the police vehicle. She stated that she was loading her car with groceries when she heard "something." She looked up and saw a "very aggressive" man shooting at the police. His arms were extended forward, pointing toward her and the police officers. She heard "a lot of shots." [REDACTED] crawled behind her car to escape the man's line of fire. She did not see the officers shoot the man but later saw him lying on the ground.

Statement of [REDACTED]

[REDACTED]

Incident Scene

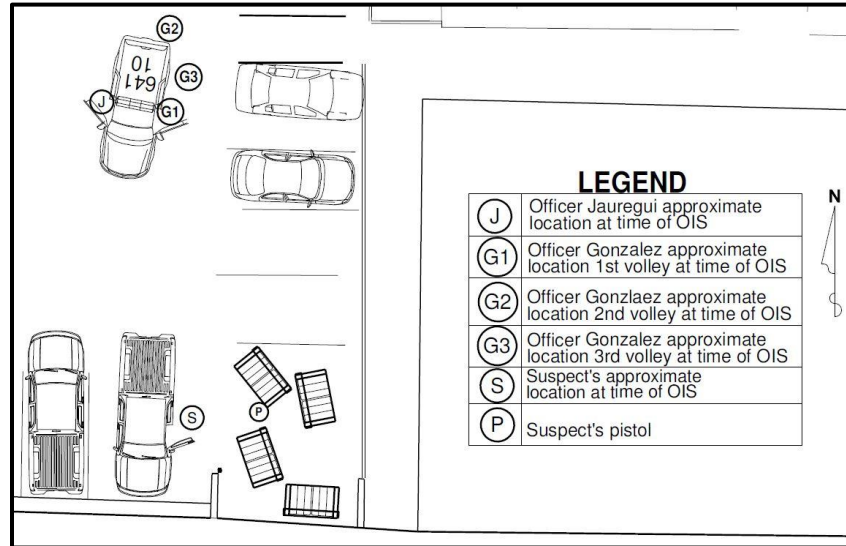


Figure 1: Diagram of the incident scene



Figure 2: Jimenez's derringer, evidence item one, circled

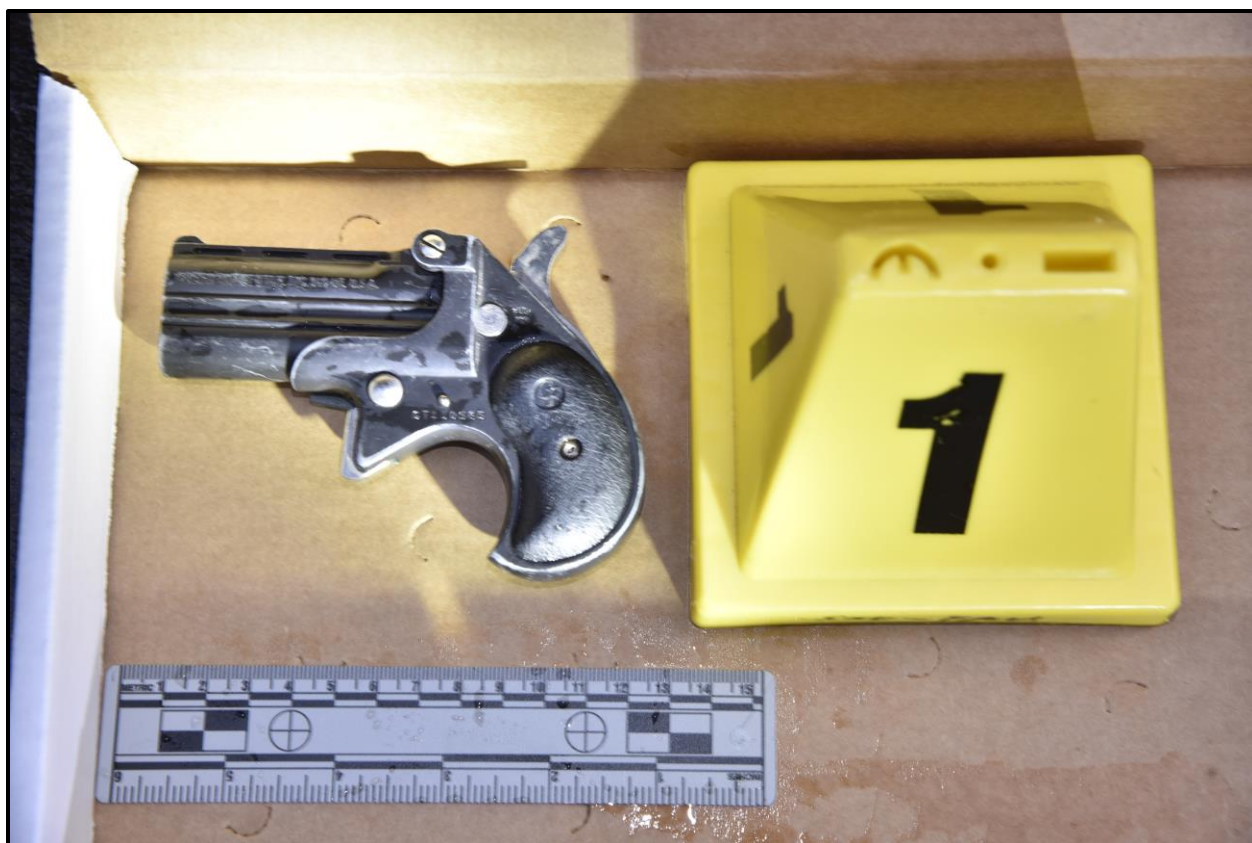


Figure 3: Jimenez's derringer

Recovered from around the officers' patrol vehicle were 11 9mm casings and five .40 caliber casings. Recovered near Jimenez's truck was a double barrel derringer-style .38 caliber pistol, fully loaded with two live cartridges.

Firearms Evidence

Post-incident, Gonzalez's 9mm service weapon was loaded with one round in the chamber plus six rounds in a 17-round magazine, consistent with her having fired 11 rounds during the incident. Jauregui's .40 caliber service weapon was loaded with one round in the chamber plus a magazine fully loaded with 15 additional rounds. This and a magazine Jauregui appears to have discarded when he reloaded his weapon, containing 10 rounds, were consistent with his having fired five rounds during the incident. Jimenez fired no shots; his derringer was fully loaded.

An inspection of the derringer and its ammunition revealed that its safety was engaged, and the two ammunition cartridges loaded inside had several light firing-pin marks. A criminalist test fired the derringer twice, once with the safety engaged and once with it disengaged. The safety-engaged-test revealed that, with each trigger pull, the weapon's firing pins (one for each barrel) struck the ammunition, lightly marking it, but the weapon did not fire. With the safety disengaged, the derringer fired normally.

Surveillance Video

Although a surveillance camera on a food truck, located across the parking lot, captured the incident, only the barest details are discernable: Jimenez's pickup truck is seen from the rear, parked. A black and white police vehicle appears from the left side of the frame, driving perpendicular to the truck, then turns and parks behind it. The police vehicle's driver door opens, and a figure, apparently Gonzalez, appears in the doorway. The truck's driver door opens, and a figure, apparently Jimenez, emerges from it. Jimenez stands near his open driver door for a few seconds before moving left (in the frame) and disappearing out of view. Jimenez appears to face the officers and make a sudden movement, but this cannot be confirmed given the poor video quality.



Figure 4: Taco truck surveillance image showing the police vehicle arrive at Food 4 Less



Figure 5: Taco truck surveillance image showing Jimenez, standing to the left of his open driver door, appear to face the officers

BWV

Gonzalez and Jauregui were equipped with body worn video. Jauregui's camera was not activated until after the officer involved shooting. Gonzalez's video captures mainly audio as her jacket appears to have blocked her camera lens during the incident, as seen below.

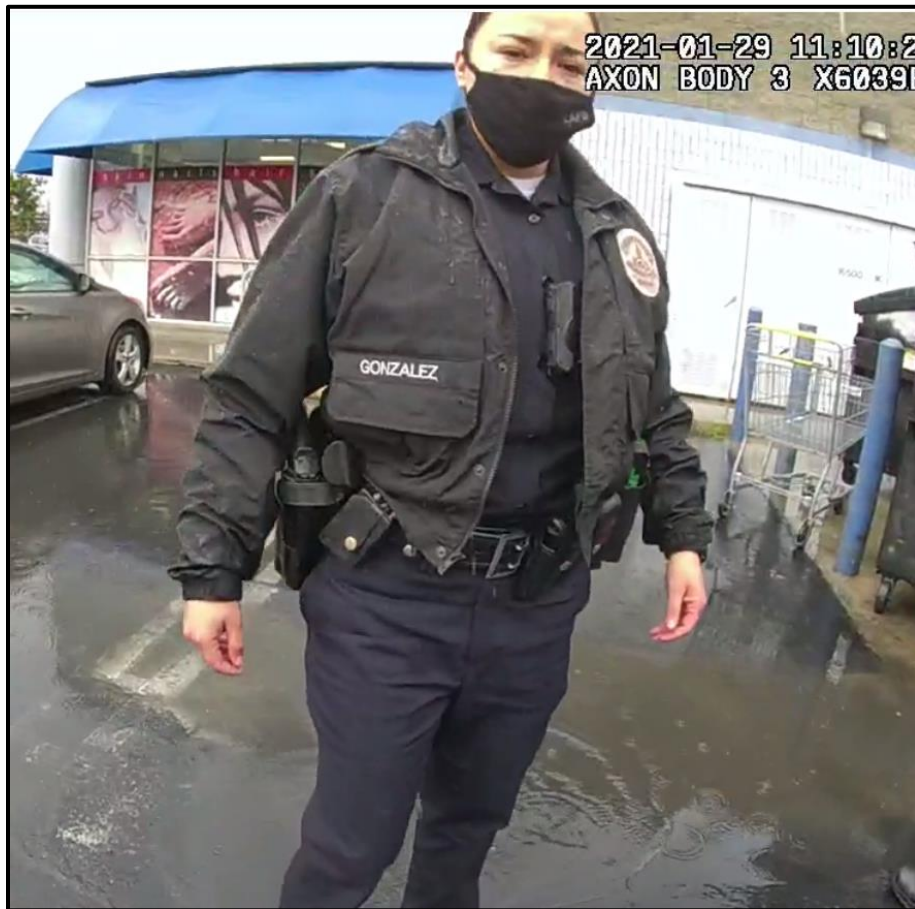


Figure 6: Still image of Jauregui's BWV, shortly after the incident, showing Gonzalez's jacket covering her body camera

Gonzalez BWV

[REDACTED]

Gonzalez's video next shows them arriving at the Food 4 Less parking lot. After parking, Gonzalez and Jauregui exit their vehicle. They take cover behind the open front doors. Gonzalez tells Jauregui to keep "an eye" on his side; she says that she cannot see anyone in the truck. Jauregui says that he thinks someone is inside. Gonzalez points her weapon at the truck and yells, "Let me see your hands" multiple times with no apparent response. Gonzalez yells again for Jimenez to show his hands, sounding much more excited, just before she is heard firing her weapon multiple times as she retreats to the rear of her vehicle.

From the rear, Gonzalez fires another volley of shots. Jauregui's apparent gunfire is audible in the background. Gonzalez runs forward to the driver door, yelling, "Get on the ground!" but quickly retreats again, backpedaling and firing as bullets are heard striking metal. (Investigators would later determine that some of Gonzalez's shots struck the door of her own vehicle.) Gonzalez walks to the driver door, with her weapon aimed forward, yelling, "Get on the ground" and "Don't move." Gonzalez and Jauregui continue to issue commands to Jimenez. Other police units arrive. The officers handcuff Jimenez, who is lying on his stomach and appears to be moving and speaking unintelligibly.



Figure 7: Still image of Gonzalez's BWV at the time of her first shots, showing the blocked camera lens

Jauregui's BWV

Jauregui activated his body worn video minutes after the incident. Apparently standing alone in the parking lot, Jauregui records himself summarizing the shooting incident: "Exigency to the incident—[sic] man came out of the driver's side with a gun and started firing at us. We returned fire. I fired back. I didn't get a chance to turn on my video."

THE LAW

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).

Deadly force shall be used “only when necessary in defense of human life,” and officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(a)(2).

“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).

ANALYSIS

The evidence shows that Jimenez pointed a loaded pistol at Officers Gonzalez and Jauregui and likely pulled the trigger multiple times, attempting to shoot them.

██
██
After locating his pickup truck, the officers took cover positions and commanded Jimenez to show his hands. He ignored them and instead, according to ██████ and Jauregui, consistent with the available video footage, exited his truck, faced the officers, and (in ██████ and Jauregui’s perception) fired a pistol at them. ██████ stated she saw a “very aggressive” man shooting at the police. His arms were extended out in front of him, pointing in the officers’—and her—direction. Moments after the incident, Jauregui recorded himself on BWV stating, “Man came out of the driver’s side with a gun and started firing at us. We returned fire.”

Although Jimenez in fact fired no shots, the evidence—the safety of his gun was engaged after the incident, and the ammunition had light strike marks—suggests Jimenez attempted to shoot the officers but was prevented by inadvertently leaving his safety engaged.

Considering the totality of the facts and circumstances known to the officers at the time, including those leading up to the incident and Jimenez’s conduct in pointing a firearm at them, the officers were reasonable to believe that deadly force was necessary to defend against the threat of imminent death. Jimenez’s actions, furthermore, left the officers with insufficient time to safely use non-deadly resources or techniques.

CONCLUSION

For the foregoing reasons, we find that Officers Gonzalez and Jauregui acted lawfully in self-defense when they used deadly force against Luis Jimenez.