

Fatal Officer Involved Shooting of Carmelo Pizarro
Los Angeles County Sheriff's Department

Deputy Brandon Longoria, #529571

Deputy Miguel Cabrera, #526017

Deputy Michael Stephenson, #532522

J.S.I.D. File #18-0307



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

September 27, 2022

MEMORANDUM

TO: 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 Carmelo Pizarro
J.S.I.D. File #18-0307
L.A.S.D. File #018-05051-1517-013

DATE: September 27, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 19, 2018, fatal shooting of Carmelo Pizarro by Los Angeles County Sheriff's Department (LASD) Deputies Brandon Longoria, Miguel Cabrera, and Michael Stephenson. We have concluded that Deputy Longoria acted lawfully in self-defense and defense of another when he used deadly force. It cannot be proven beyond a reasonable doubt that Deputies Cabrera and Stephenson did not act lawfully in self-defense and defense of another when they used deadly force against Carmelo Pizarro.

The District Attorney's Command Center was notified of the shooting at approximately 3:52 a.m. on July 19, 2018. 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, firearm analysis reports, coroner's reports, photographs, 9-1-1 calls, radio traffic, surveillance video, and witness statements submitted to this office by LASD Homicide Bureau Detectives Scott Lawler and Steve Blagg.¹

Deputies Longoria, Cabrera and Stephenson provided voluntary statements that were considered as part of this analysis.

Longoria and Stephenson were deposed in a related civil action and those depositions were also considered.²

¹ The deputies were not wearing body cameras.

² The civil litigation resulted in a one-million-dollar settlement. Longoria and Stephenson were both deposed in that litigation and articulated in detail their belief that Pizarro presented a deadly threat.

FACTUAL ANALYSIS

Initial Contact

On July 19, 2018, at approximately 1:37 a.m., LASD Deputies Sean Leake and Brandon Longoria were in uniform and on patrol in a marked vehicle when they saw a car stopped across traffic lanes on a surface street. The car did not have any lights on. Leake and Longoria parked their patrol car, exited, and walked up to the car to investigate. As they were approaching, the driver and sole occupant, later identified as Carmelo Pizarro, sped away.

The Pursuit and Crash

Leake and Longoria re-entered their patrol car and pursued. Pizarro reached speeds of up to 90 m.p.h., weaved in-and-out of traffic, and ran a red light. Leake initiated the patrol car's overhead lights and sirens and radioed that they were in pursuit of a reckless drunk driver. Pizarro attempted a high-speed turn, lost control, and crashed into a light pole and a parked car. Pizarro emerged from the crashed car, made eye contact with Longoria, and moved his hands around his stomach and chest area. Longoria ordered Pizarro to show his hands and not move. Pizarro ignored Longoria's commands and ran away. Longoria chased Pizarro on foot while Leake followed in the patrol car.

Video of the Crash Scene

A surveillance video from a residence adjacent to the crash scene started recording seconds after the crash. Pizarro's crashed car cannot be seen because it is obstructed by a parked car. Longoria is seen pointing his service weapon at Pizarro and can be heard ordering Pizarro to show his hands and not to move. Pizarro ran away and, when the video is played in real time, Pizarro can be seen holding his waistband with his right hand, as shown in the photo below:



Figure 1- Video of Longoria attempting to hold Pizarro at gunpoint, and Pizarro running away holding his waistband.

The First Shooting

Pizzaro stopped and crouched behind a car parked in the driveway of a home. Longoria positioned himself approximately 20 feet from Pizzaro and ordered Pizzaro to show his hands. Pizzaro ignored the command, held a car's rearview mirror in his hand, and pointed it at Longoria "like a simulated firearm." Pizzaro dropped the mirror, stood up, and lunged at Longoria. Longoria stated he was in fear and backed up from Pizzaro, who stated, "I am going to kill you." Pizzaro moved to the front yard of the home while blading his body toward Longoria. Pizzaro lifted his jersey, revealing the dark colored handle of a gun, which was held in place by a belt around Pizzaro's stomach. Pizzaro was wearing basketball-style shorts that sagged below his waistline. A photo of those shorts is shown below:



Figure 2- Photo of Pizarro's basketball shorts and belt.

Pizzaro tugged at the handle of the gun approximately three to four times. Longoria stated he believed Pizzaro was drawing the weapon and intended to carry out his threat to kill Longoria. In fear for his life, Longoria drew his duty weapon and fired four times, striking Pizzaro.³ Pizzaro ran across the street and appeared to be limping. Longoria followed him, taking cover behind parked cars. Pizzaro leaped over the fence of a home, at which time Longoria lost sight of him. LASD issued a broadcast indicating a deputy involved shooting had occurred and a foot pursuit was underway. The broadcast did not indicate whether the suspect was armed.

³ Longoria estimated he fired his duty weapon three times; a round count of Longoria's service weapon indicates he discharged his duty weapon four times. Neither the investigative reports nor Longoria's voluntary statement indicate how far Longoria was from Pizzaro when he discharged his firearm.

Pizzaro's Gun



Figure 3- Photo of Pizzaro's gun located in ██████'s backyard.

██████. was with friends in his backyard when he heard a man on the other side of the cinderblock wall that separates ██████'s property from his rear neighbor's property. The man yelled, "Fuck!" and threw an item over the wall, which landed in ██████'s backyard. ██████. walked over to the item and recognized it as a firearm. He called 9-1-1 and informed dispatchers of his discovery.⁴

Within minutes after the second deputy involved shooting, deputies responded to ██████'s residence and observed the firearm that had been thrown over ██████'s back wall. It was identified as a Smith & Wesson .357 magnum revolver, missing its cylinder. The corresponding six shot cylinder and five live .357 caliber rounds were recovered from the driver's floorboard of the Mitsubishi during a search warrant executed on July 25, 2018.⁵

The Second Shooting

The LASD airship advised deputies that Pizzaro was running through a residential area. Deputy Miguel Cabrera responded to the location in his patrol car and stated he observed Pizzaro passing through the front yards of various residences while Pizzaro held the waistband area of his sagging

⁴ The deputies involved in the second officer involved shooting were not informed that Pizzaro had discarded the firearm.

⁵ The gun was swabbed for DNA but not tested. The absence of Pizzaro's DNA on the gun would not alter the conclusion in this matter.

shorts with his right hand.⁶ Pizzaro entered the driveway of one of the residences and crouched down between two of the cars parked in the driveway. In this position, Pizzaro was facing north toward additional deputies (including Deputy Michael Stephenson) standing on the lawn, with Cabrera standing east of Pizzaro. Cabrera and Stephenson issued multiple commands to Pizzaro to, “Put your hands up” and “Show me your hands.” Meanwhile, Deputies Miguel Hluz and Sergeant Blanca Creta arrived at the location.

Pizzaro ignored Cabrera’s commands and, according to Cabrera and Hluz, reached toward his waistband. Pizzaro stood up, turned toward Cabrera, and stared at him. Pizzaro had his back toward Stephenson at this time. From Stephenson’s vantage point, Pizzaro appeared to roll his shoulders forward and extend his left arm outward. Stephenson believed Pizzaro was forming a combative shooting stance. Cabrera said he observed Pizzaro turn toward him (Cabrera) while reaching toward his waistband. He said he suspected Pizzaro was attempting to arm himself and in fear of his and other deputies’ lives, Cabrera fired his duty weapon twice.⁷ According to Cabrera, Pizzaro once again reached for his waistband, and Cabrera responded by firing an additional seven times.⁸

Stephenson stated he initially went to the scene of the crash and heard the broadcast that there was a deputy involved shooting. He monitored the radio traffic and learned that 9-1-1 callers reported the suspect running through backyards. The LASD airship also reported a person matching the suspect description of the man involved in the foot pursuit and shooting exiting the containment and walking. Stephenson drove to that location and saw the suspect, later identified as Pizarro, walking away. Stephenson said he ordered Pizarro to stop but Pizarro did not comply and continued to walk away, with his hands concealed in front of him and appearing to be “digging” in his shirt. Pizarro went into the driveway of a residence and crouched down behind a parked car. Stephenson screamed at Pizarro multiple times to show his hands. Pizarro, who was partially obstructed from view by the parked car, stood up and extended his left arm, which Stephenson said he perceived as Pizarro taking a shooting stance. Stephenson could not see Pizarro’s left hand or right arm. He saw Pizarro’s left arm but was unable to discern at that moment if Pizarro had anything in his hands. Stephenson then heard gunshots and believed they were originating from Pizarro and aimed at Cabrera, Creta, and Hluz. Stephenson’s perception was based in part on his observation that Pizarro was like a “statue” and did not move when shots were fired. Stephenson believed if Pizarro was not moving and reacting to being shot at, as would be expected, Pizarro was the person shooting. In a decision made in less than three seconds and believing Pizzaro had already fired in the other deputies’ direction, Stephenson fired his duty weapon five times at Pizarro from behind.⁹

⁶ Cabrera has two prior on-duty misconduct cases that were previously presented to JSID. Both cases were declined for lack of sufficient evidence. Cabrera is pending charges in case BA490695 violations Penal Code sections 288.4(b) and 288.2(a)(2).

⁷ Cabrera was aware Pizzaro was previously involved in a deputy-involved-shooting and believed Pizzaro was armed. Neither the investigative reports nor Cabrera’s voluntary statement indicate how far Cabrera was from Pizzaro when he discharged his firearm.

⁸ Cabrera estimated he fired his duty weapon six to eight times; a round count conducted of Cabrera’s service weapon indicates the gun was discharged nine times.

⁹ Neither the investigative reports nor Stephenson’s voluntary statement indicate how far Stephenson was from Pizzaro when he discharged his firearm. Hluz was running toward a tree to take cover when he heard gunshots. He believed Pizzaro was shooting at the other deputies. Hluz then observed Stephenson shoot the suspect. Creta observed Pizzaro attempting to conceal his hands in front of his body, take a shooting stance, then walk behind the SUV. She lost sight of Pizarro at that time. Moments later, she saw Cabrera fire toward the area she had last seen Pizarro.

Pizzaro fell to the ground, landing on his left side. Cabrera and Stephenson were able to secure Pizzaro's hands and handcuff him. They searched Pizzaro's waistband and observed a black belt tied around Pizarro's stomach. They did not recover a weapon. Deputies rendered aid, fire personnel responded to the scene, and Pizzaro was pronounced deceased at 2:34 a.m.

Several individuals in the area were interviewed concerning their observations. [REDACTED] indicated he heard deputies yelling, "Get down! Get down!" He also heard gunshots but did not see the officer involved shooting. [REDACTED] stated she heard male voices yelling, "Stop!" and heard approximately four to six gunshots. She did not see what transpired. [REDACTED] heard a male voice say, "Please put your hands in the air," and another male voice respond with, "What are you going to do? Shoot me?" She then heard two gunshots but did not see the officer involved shooting.

[REDACTED] is Pizzaro's mother. She indicated she heard a helicopter overhead, which prompted her to walk to the front door and look outside. She observed Pizarro walking past the house, with his hands by his side, toward a neighboring residence out of view. She noticed multiple deputies on the street and sidewalk with their guns drawn. [REDACTED] yelled to them, "Don't shoot! That's my son!" She heard the deputies say, "Stop!" and "Put your hands up!" before hearing five gunshots. She then observed deputies dragging her son from the driveway of a nearby home.

Radio Traffic

An LASD airship broadcast to the deputies that Pizarro was walking, and his right hand could not be seen.

9-1-1 Calls

A 9-1-1 caller reported that someone had "dropped something" in a backyard (the gun was later found in that location).

Autopsy

Deputy Medical Examiner Michael J. Miller performed an autopsy on July 29, 2018. Dr. Miller determined Pizzaro's cause of death to be multiple gunshot wounds. The autopsy revealed Pizzaro had sustained six gunshot wounds: one to his head (entry through the left temporal scalp moving left to right and downward), one to his right upper chest (moving downward), two to his left upper back (one moving left to right and downward; the other moving left to right), one to his left thigh (moving front to back and downward), and one to his left elbow (moving left to right and slightly upward). The gunshot wounds to his head and left upper back were determined to be "potentially rapidly fatal." A subsequent toxicology test revealed Pizzaro had alcohol, THC, amphetamine, and methamphetamine in his blood at the time of his death.

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 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.

A police officer may use objectively 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. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

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.

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.*

“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. In evaluating whether a police officer’s use of deadly force was reasonable in a specific situation, 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 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.

In the instant matter, the available evidence shows Pizzaro fled in his vehicle from the deputies at a high rate of speed, ultimately crashing into a pole and a parked vehicle. He then fled on foot and ignored deputies' orders to show his hands. He crouched behind a car and stated to Longoria, "I am going to kill you." Pizzaro ignored Longoria's commands to show his hands, and subsequently lifted his jersey to reveal a gun held in place by a belt. Pizzaro tugged at the gun. In response, and reasonably in fear for his life, Longoria fired his duty weapon at Pizzaro. Longoria's use of force was reasonable under these circumstances.

Pizzaro then fled from Longoria while continuing to hold his waistband and—unknown to deputies at the scene—discarded his weapon in a nearby backyard. Cabrera, Stephenson, Creta, and Hluz responded to the call, were aware a deputy involved shooting had occurred, the suspect was possibly armed, and a foot pursuit of the suspect was underway. Cabrera, Stephenson, Creta, and Hluz located Pizzaro, who matched the suspect description and location, as broadcast by the LASD airship. Cabrera and Stephenson issued multiple commands to Pizzaro to show his hands, which he ignored. According to Cabrera, Pizzaro turned toward him while reaching toward his waistband.¹⁰ Aware that a deputy involved shooting had occurred previously, believing Pizarro to still be armed, and in fear for his life, Cabrera said he fired his duty weapon twice. Pizzaro once again reached for his waistband, according to Cabrera, and he responded by firing an additional four to seven times.

Based on his vantage point and knowing that he was dealing with a possibly still armed suspect who was not complying with commands and attempting to conceal himself behind a parked car, Stephenson stated he believed Pizzaro took a shooting position and fired in Cabrera's direction. In fear for Cabrera, Creta, and Hlutz's lives, Stephenson discharged his duty weapon at Pizarro. Stephenson's actions were responsive to the reports of his fellow deputies who relayed that Pizzaro was armed with a handgun, and Stephenson's personal observations of Pizarro's behavior of holding his waistband and concealing his hands in front of him (as shown in surveillance video after the first shooting), not complying with commands, attempting to conceal himself, and taking a shooting position. Based on the totality of the circumstances, Pizarro's actions could reasonably be interpreted by a reasonable deputy as threatening even though, in hindsight, Pizarro's actions were not life-threatening. Stephenson's conduct and voluntary statement indicated he believed Pizarro was an armed suspect who presented a deadly threat, and the evidence is consistent with that belief being reasonable. The circumstances immediately prior to, and during the shooting, put Stephenson in a situation in which he was required to make a split-second judgment. His fear that Pizarro was shooting at deputies was understandable and justified given that he believed he was dealing with an armed suspect who had been involved in a deputy involved shooting minutes earlier. There is no evidence to suggest that Stephenson did not honestly and reasonably believe that Pizarro was an armed suspect who presented a deadly threat when he fired his service weapon to protect himself and others.

CONCLUSION

In sum, what transpired in this incident was a series of events put in motion by Pizzaro. A reasonable trier of fact is likely to find that Pizarro put Longoria, Cabrera, and Stephenson and the other deputies in a situation that caused them to make a split-second decision regarding the

¹⁰ It is unclear why Pizzaro continued to move toward and grab at his waistband once he had discarded the weapon.

amount of force to use in defending themselves and others from a perceived armed attacker, who was in fact armed with a handgun at one point during the incident.

We find that Deputy Longoria acted lawfully in self-defense and defense of another when he used deadly force against Carmelo Pizarro.

Based on the foregoing circumstances, it cannot be proven beyond a reasonable doubt that Deputies Cabrera and Stephenson did not act lawfully in self-defense and defense of another when they used deadly force against Carmelo Pizarro.