

Fatal Officer Involved Shooting of Santos Nunez-Garcia

Los Angeles Police Department

**Sergeant James Muniz, #30963
Officer Melchor Oronoz, #37880**

J.S.I.D. File #18-0086



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 9, 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: Fatal Officer Involved Shooting of Santos Nunez-Garcia
 J.S.I.D. File #18-0086
 F.I.D. File #F011-18

DATE: October 9, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 25, 2018, fatal shooting of Santos Nunez-Garcia by Los Angeles Police Department (LAPD) Sergeant James Muniz and Officer Melchor Oronoz. We have determined that Sergeant Muniz and Officer Oronoz acted in lawful self-defense and defense of others when they used deadly force against Nunez-Garcia.

The District Attorney's Command Center was notified of this shooting on February 25, 2018, at approximately 9:50 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant James Antenucci.

The following analysis is based on reports and other materials, including 9-1-1 calls, radio transmissions, police body-worn video camera recordings (BWV), photographs, and audio-recorded interviews of witnesses submitted by the LAPD Force Investigation Division. The compelled statements of Sergeant Muniz and Officer Oronoz were not considered in this analysis.

FACTUAL ANALYSIS

On February 25, 2018, between 7:00 a.m. to 7:30 a.m., one or more men pried open the rolling metal security gate in the front of a cannabis dispensary located on Century Boulevard and entered the business. The business was situated in the corner of an L-shaped strip mall, directly next to several steps leading down to the rear of the strip mall adjoining an alley.



Corner of L-shaped strip mall.

The alarm company monitoring the business was alerted to the break in and notified an employee of the dispensary. The employee viewed real-time video surveillance of the interior of the location and observed a person inside the business. The alarm company called 9-1-1 and reported the burglary. The employee and his wife promptly drove to the business and saw two men, who were parked nearby, drive away. The employee and his wife followed the car for a short distance and then returned to the business because the employee viewed the surveillance feed and saw that a person was still inside the location. The employee and his wife waited in their car for the police to arrive.

At approximately 7:49 a.m., Oronoz and his partner, Officer Ortega arrived at the business. Both officers were dressed in LAPD uniform. The officers met with the employee, who told them that “they” were still inside the business. Ortega requested backup broadcasting that the burglary was in progress.

Oronoz and Ortega approached the front of the business. Soon thereafter, Ortega heard movement inside the business and began to communicate with Nunez-Garcia, who was inside the business, in English and in Spanish. Ortega identified himself and Oronoz as police officers. Nunez-Garcia responded in Spanish and indicated that he wanted to exit the business, but Ortega directed Nunez-Garcia to remain inside.¹ Nunez-Garcia became agitated and yelled for Ortega to move out of the way and threatened to shoot gasoline at Ortega. Ortega told Nunez-Garcia that if he was coming out, to come out with his hands up with nothing in his hands. Nunez-Garcia stated, “Don’t shoot me.” Ortega told him, “We’re not going to shoot you as long as you don’t have any weapons in your hand, so come out with your hands up.”

¹ Oronoz and Ortega did not know that the business was a cannabis dispensary. Ortega believed that Nunez-Garcia was a squatter and wanted to wait for additional units in case there were several other squatters inside.

At approximately 7:54 a.m., Muniz arrived and parked his police car at the opening of the alley to the rear of the strip mall. Muniz took cover near a cinderblock wall adjoining a metal gate securing a garbage dumpster near several steps leading up to the front of the business.

At approximately 7:56 a.m., Nunez-Garcia exited through the damaged opening of the metal security gate and ran down the steps leading to the gated area in the alley holding a revolver. Ortega is heard on BWV stating, "He's running!" Ortega did not see Nunez-Garcia holding the revolver at this time.



Photograph depicting steps from the trash dumpster area to the adjacent cannabis dispensary.

In Muniz' BWV, Nunez-Garcia emerged at the top of the steps, ran down, and took a position behind the dumpster with both arms extended toward Muniz consistent with a two-hand, isosceles shooting stance.



Muniz' BWV depicting Nunez-Garcia after he first descended the steps leading to the gated area adjoining the alley.

Muniz immediately repositioned himself and yelled to other officers entering the alley, “He’s got a gun! He’s got a gun!” Muniz discharged two rounds at Nunez-Garcia. Nunez-Garcia ran back up the steps.

Ortega saw Nunez-Garcia holding a revolver in his right hand, pointing upward near chest level. Ortega yelled, “He has a gun!” as he quickly walked backward to find cover. Immediately after Ortega’s announcement, Oronoz who was positioned to the left of Ortega fired one round from his service weapon at Nunez-Garcia as he stood in the parking lot without cover.² Nunez-Garcia ran back down the steps.



Oronoz’ BWV showing Oronoz’ position in relation to corner of L-shaped strip mall immediately before he fired his service weapon.

Muniz’ BWV showed Nunez-Garcia holding his handgun in front of his body as he descended the steps. When he came into view, Muniz discharged two rounds at Nunez-Garcia from approximately 45 feet. Nunez-Garcia took a position behind the trash dumpster, and then moved adjacent to the trash dumpster. Muniz fired two more rounds at Nunez-Garcia. Muniz’ BWV showed Nunez-Garcia expose the top of his head from behind the top of the trash dumpster, and Muniz fired one more round at Nunez-Garcia from approximately 35 feet. Muniz attempted to fire another round but experienced a weapon malfunction. Muniz took cover, cleared the malfunction, and fired another round at Nunez-Garcia who exposed his head over the top of the trash dumpster.³

² Oronoz’s BWV tilted downward just prior to when he fired his service weapon and did not capture Nunez-Garcia in the video.

³ Muniz activated his BWV at this time, approximately 40 seconds after Garcia first ran down the steps. Although his entire interaction with Garcia is captured on video, there was no sound until Muniz’ activation.

Muniz told Nunez-Garcia, in Spanish, to drop his handgun. Nunez-Garcia can be heard on Muniz' BWV yelling, "Tranquilo!," slang in Spanish for relax or calm down. Muniz' BWV captured him fire another round at Nunez-Garcia, as Nunez-Garcia moved behind the trash dumpster. Muniz' BWV captured Nunez-Garcia's head above the trash dumpster, and showed Nunez-Garcia was holding an object in his right hand. Muniz fired another round at Nunez-Garcia. Muniz' BWV then captured Nunez-Garcia extend what appeared to be his right arm above the dumpster, holding his handgun. Muniz fired another round at Nunez-Garcia.



Muniz' BWV depicts Nunez-Garcia raise his handgun immediately before Muniz fired the final round at Nunez-Garcia.

Nunez-Garcia ceased to make any additional movements. The officers formed a tactical plan to safely enter the gated area. The officers approached and discovered Nunez-Garcia lying on his right side behind the trash dumpster with the gun in his right hand. BWV showed an officer grab Nunez-Garcia's handgun from his hand and place it away from Nunez-Garcia.



Nunez-Garcia's revolver photographed at the scene after it was moved.

Nunez-Garcia's gun was a .38 Special caliber Smith and Wesson revolver, loaded with five live rounds in a six-chamber cylinder. One chamber in the cylinder was empty. Firearms analysis determined that the pistol was functional. Nunez-Garcia did not fire any rounds from his pistol during the incident.

Nunez-Garcia was pronounced dead at the scene by paramedics. On February 27, 2018, an autopsy was conducted, and the medical examiner determined that the cause of Nunez-Garcia's death was a single gunshot wound entering his head near his left eye. Toxicology analysis determined the presence of methamphetamine and amphetamine in Nunez-Garcia's blood system.

LEGAL ANALYSIS

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 505. In protecting himself or another, a person may use that amount of 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 imminent injury. *Id.*

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

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 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.

Officers arrived at a burglary in progress, made verbal contact with Nunez-Garcia, and identified themselves as police officers. Unbeknownst to the officers, Nunez-Garcia was armed with a loaded and operable handgun. Nunez-Garcia made threats about shooting the officers with gasoline and attempted to flee holding his gun pointing upward. Nunez-Garcia ran down the steps leading to the gated trash dumpster area, took a shooting stance, and pointed his handgun in the direction of Muniz, a uniformed police officer.

Muniz fired a total of 11 rounds at Nunez-Garcia in the span of approximately one minute. Nunez-Garcia posed a deadly threat to Muniz and the officers in front of the business for the duration of the incident. After Muniz fired the first two rounds, Nunez-Garcia attempted to flee in the direction of Oronoz and Ortega while still holding his gun. Although Oronoz' BWV did not capture Nunez-Garcia in its frame at the moment Oronoz fired a round, Ortega stated that when Nunez-Garcia returned up the steps after shots were fired, Nunez-Garcia held the revolver

pointing upward near chest level. Based on the totality of circumstances, Oronoz fired his service weapon one time to stop the deadly threat Nunez-Garcia posed to himself and his partner as they stood in the parking lot without cover when Nunez-Garcia emerged armed with his handgun. Nunez-Garcia once again fled to the gated area down the steps to the rear of the alley.

Nunez-Garcia had several opportunities to drop his handgun and surrender, but at least on two occasions raised his gun above the trash dumpster as he looked in Muniz' direction. Muniz fired his service weapon until he stopped the continuing threat Nunez-Garcia posed to the officers at the scene. Nunez-Garcia's actions never indicated that he intended to surrender. Nunez-Garcia's actions indicated that he had the ability and intent to shoot at uniformed police officers.

CONCLUSION

We conclude that Sergeant Muniz' and Officer Oronoz' use of deadly force was legally justified in self-defense and in the defense of others. We are closing our file and will take no further action in this matter.