

**Non-Fatal Officer Involved Shooting of Nicholas Hernandez
Los Angeles County Sheriff's Department**

**Deputy Jeremy Licon, #606666
Deputy Aaron Agajanian, #638502**

J.S.I.D. File #21-0540



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 17, 2024

MEMORANDUM

TO: ACTING CAPTAIN ARTURO R. SPENCER
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: Non-Fatal Officer Involved Shooting of Nicholas Hernandez
J.S.I.D. File #21-0540
L.A.S.D. File #021-13600-0454-055

DATE: October 17, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 18, 2021, non-fatal shooting of Nicholas Hernandez by Los Angeles County Sheriff's Department (LASD) Deputies Jeremy Licona and Aaron Agajanian.

We have concluded the deputies acted in lawful self-defense and defense of another when they fired their weapons, reasonably believing, based on a totality of the circumstances, that deadly force was necessary to defend against an imminent deadly threat.

The District Attorney's Command Center was notified of this shooting on December 18, 2021, at approximately 8:39 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LASD Lieutenant Hugo Reynaga.

The following analysis is based on body worn camera video (BWV), surveillance video, voluntary deputy statements, reports, and photographs. These materials were submitted to this office by the LASD Homicide Bureau on September 15, 2022.

INTRODUCTION

On December 18, 2021, at approximately 7:26 p.m., Licona and Agajanian, in uniform and driving separate marked cars, were on patrol in the city of Norwalk. Licona and his partner, Deputy Christopher Abeyta, attempted a traffic stop of a black Lexus sedan driven by Nicholas Hernandez. Hernandez was suspected of assault with a deadly weapon and believed to be armed and dangerous.

Hernandez fled from Licona and other units who joined the pursuit, including Agajanian. Fifteen minutes after the pursuit began, Hernandez crashed his car into a bystander car and fled on foot through a neighborhood in the city of Downey. Licona and Agajanian ran after Hernandez and found him standing at the front door of a house not associated with him.

According to the deputies' statements, Hernandez pointed a pistol at them, prompting them to fire several shots at him in response. Grainy BWV appears to show Hernandez holding a dark object in his right hand then raising his arm toward deputies at the time the shooting occurred.

Moments after the shooting, deputies recovered two pistols lying within arm's reach of Hernandez and a third pistol in a satchel strapped across his chest.

Hernandez was wearing body armor at the time of the incident. He sustained multiple gunshot wounds to his upper body. He survived his injuries. No one else was injured by gunfire.

FACTUAL ANALYSIS

BWV

After the traffic pursuit ends, BWV shows Agajanian and Licona exit their respective cars. Licona's partner, Abeyta, exits from the driver's seat and yells several times that Hernandez has a gun. Agajanian appears to hear him, saying, "He's got a gun?" Agajanian and Licona run ahead, past several single family houses. Agajanian is ahead of Licona. Agajanian runs along the side of a corner lot house. He rounds the corner of the house and comes suddenly into view of a porch and front door that faces him. The porch is partially enclosed by a low stone wall.

As best as can be determined from Agajanian's BWV, Hernandez stands at the front door. Hernandez makes an indistinct movement and, viewed frame by frame, appears to be holding in his right hand a dark object pointed downward. Agajanian yells, "Hey!" and opens fire at Hernandez.

According to Licona's BWV, Licona rounds the corner less than one second after Agajanian and opens fire a moment after Agajanian. Licona's footage, viewed frame by frame, appears to show Hernandez's right hand raised toward Agajanian just after Agajanian's first shot.



Figure 1: Agajanian BWV still showing Hernandez appear to hold dark object.



Figure 2: Licona BWV still showing Hernandez appear to raise right hand toward Agajanian.

The deputies fire a rapid volley lasting approximately three seconds. They cease fire as Hernandez appears to slowly fall into a seated position then lies flat on his back. After several minutes, other deputies approach Hernandez. BWV shows a revolver lying near Hernandez's right foot and a semiautomatic pistol lying near his left arm.



Figure 3: BWV still showing revolver lying on the porch near Hernandez (out of view). Inset: photo of gun taken later.



Figure 4: BWV still showing semiautomatic pistol lying on the porch near Hernandez. Inset: photo of gun taken later.

Surveillance Footage

A surveillance camera located across the street from the corner house recorded footage of the incident. Due to the distance and lighting, the footage does not capture Hernandez's actions at the time of the shooting.

Deputy Statements

Licona, Agajanian, Abeyta, and other deputies who arrested Hernandez provided voluntary statements. The following is a synopsis.

Licona and Abeyta were on patrol when they observed Hernandez's black Lexus sedan parked at a motel in Norwalk. They ran the license plate. The vehicle came back as associated with Hernandez. He was wanted as a suspect in an assault with a firearm incident and considered armed and dangerous. (The deputies could not see who was driving the car until Hernandez ran from it after the traffic collision.) When the deputies attempted to contact Hernandez, the Lexus fled at high speed and recklessly evaded them. The deputies, joined by additional personnel, including Agajanian, pursued Hernandez for approximately 15 minutes. The pursuit ended when Hernandez's car collided head on with a bystander's SUV in a neighborhood in Downey.

After the collision, Abeyta said that he saw Hernandez run from his car while holding a gun in his right hand. Abeyta yelled, "Gun!"

Agajanian said he caught up to Hernandez standing on a house's front porch. Hernandez had his back to him. Hernandez turned toward him while holding a gun in his right hand. Regarding his decision to fire, Agajanian said: "he's a 245 suspect. It looks like he's trying to break into this house. He has a gun in his hand and he's bringing it up at us. So, I fired several shots. ... I've got to stop the threat because right now he's the threat." Asked if Hernandez pointed the gun at him, Agajanian responded, "Correct."

Licona said that he fired his weapon after rounding the corner of the house and coming into view of Hernandez standing on the porch: “I see that suspect [Hernandez] standing there. The suspect then raises his firearm and points it directly at us ... Deputy Agajanian and I. ... I engaged the suspect and fired my firearm until I believe the threat has temporarily subsided, which the suspect fell to the ground.”

Deputies formed an arrest team and approached Hernandez. From the porch they recovered a silver revolver lying on Hernandez’s right side and a semiautomatic pistol lying on his left side. Hernandez wore body armor on his torso and possessed a third pistol, inside of a satchel strapped across his chest.

Investigators spoke to several civilians in the surrounding neighborhood who heard but did not see the shooting.

Physical Evidence

Based on post incident examinations of their weapons and the number and location of shell casings observed at the scene, during the incident Agajanian appears to have fired eight rounds from his 9mm service pistol and Licona five rounds from his 9mm service pistol. There was no evidence that Hernandez fired a weapon.

The pistols lying near Hernandez were a loaded and operable .38 special revolver and a loaded 9mm pistol, which was found to be jammed by a casing but otherwise operable. Inside the satchel was a 9mm pistol without a barrel installed.

According to reports, Hernandez was treated for multiple gunshot wounds by paramedics and transported to the hospital where he was listed in stable critical condition.

Criminal Case against Hernandez

Hernandez is currently pending trial in case #VA157447, Norwalk Branch, for 12 felony counts, including attempted murder and assault with a firearm on a peace officer (stemming from this incident); shooting at an inhabited dwelling, committed on December 11, 2021; and murder, committed on December 2, 2021.

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). Moreover, “[a] peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested.” Penal Code section 835a(d).

ANALYSIS

Deputies were informed that Hernandez was wanted for an assault with a firearm and was believed to be armed and dangerous. When they attempted to detain Hernandez in a motel parking lot, he fled from them in his car. After a 15 minute traffic pursuit, Hernandez crashed head on into another vehicle in a neighborhood where he did not live. He abandoned his car, ran onto the front porch of a random house, and tried to force entry while armed with a gun.

According to Agajanian and Licon, they fired at Hernandez because he turned in their direction and raised or pointed a pistol at them. BWV footage from each deputy, though grainy, appears to corroborate their statements, as do the two pistols found lying on the ground within arm’s reach of Hernandez moments after the shooting.

Considering the totality of the circumstances known to the deputies at the time, including those leading up to the incident, it was reasonable for them to believe that deadly force was necessary to defend against an imminent deadly threat when Hernandez tried to forcibly enter a random person’s house then turned toward deputies and raised a pistol at them.

CONCLUSION

Based on the foregoing, the deputies acted lawfully in self-defense and defense of another at the time they fired their weapons, reasonably believing, based on a totality of the circumstances, that deadly force was necessary to defend against an imminent deadly threat.