

Non-Fatal Officer Involved Shooting of Julie Fernandez

Los Angeles Police Department

Officer Blake Csicsai, Serial #39200

J.S.I.D. File #19-0219



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 28, 2021

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 Julie Fernandez
J.S.I.D. File #19-0219
F.I.D. File #F021-19

DATE: October 28, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 26, 2019 non-fatal shooting of Julie Fernandez by Los Angeles Police Department Officer Blake Csicsai, Serial #39200. We have concluded that Csicsai acted in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on May 26, 2019, at approximately 8:53 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Lieutenant James Antenucci.

The following analysis is based on reports, recorded interviews, photographs, body worn video (BWV), digital in car video (DICV), dispatch recordings, medical records, and a 9-1-1 call. These materials were submitted to this office by the LAPD Force Investigation Division. Officer Csicsai's compelled statement was considered in this analysis.

INTRODUCTION

On Sunday, May 26, 2019, at approximately 7:35 a.m., Kathie M. was inside her house when she called 9-1-1 and reported that a woman (later identified as Julie Fernandez) was sitting in Kathie M.'s driveway holding a gun to her head, talking about killing herself.

At 7:38 a.m., LAPD communications broadcasted the incident to nearby patrol units, indicating a possible suicidal woman holding a gun to her head. At 7:43 a.m., Officers Blake Csicsai and Patmarloue Azurin arrived on scene followed seconds later by Officer Rodolfo Rivera. At 7:45 a.m., Csicsai and Azurin first spotted Fernandez standing in Kathie M.'s driveway holding a gun to her head. Csicsai identified himself as "Police" and ordered Fernandez to drop her gun. He radioed for backup units, a supervisor, and an airship, reporting to dispatch that Fernandez had a gun to her head.

During a twenty-minute standoff, Fernandez remained in Kathie M.'s driveway holding a gun to her head yelling at officers, "Shoot me!" Officers ordered and pleaded with her to drop her gun. Seventeen officers eventually arrived and took cover at various locations around Kathie M.'s house. Many aimed firearms (rifles, shotguns, handguns) or less lethal weapons at Fernandez.

Just before 8:00 a.m., Officers Lemus-Morales and Romero contacted Fernandez's boyfriend near the scene. He told them that Fernandez had his .45 caliber Glock, loaded with ten rounds. Officer Lemus-Morales informed a supervisor on scene what they learned. Csicsai was not present for that conversation and the information was not broadcasted.

At 8:06 a.m., Fernandez was sitting on a grass median that separates the street from the sidewalk in front of Kathie M.'s house. She was holding the gun to her head and yelling, "Shoot me!" She then stood up and quickly walked toward Csicsai, moving the gun away from her head, and pointing it in the air. Csicsai fired five shots from a distance of 40 feet, striking Fernandez and causing her to drop her gun. Fernandez slowly walked back to the grass median where she had been sitting and fell to the ground. Officers approached Fernandez and arrested her before paramedics arrived about a minute later and rendered aid to Fernandez. Paramedics transported Fernandez to the hospital in a rescue ambulance. Fernandez survived her injuries.

Fernandez was armed with a Glock Model 30, .45 caliber pistol, loaded with four rounds and one discharged casing in the chamber.



FACTUAL ANALYSIS

Kathie M.'s Statement

Kathie was in her house when she heard loud "one way" talking. She looked out her window and saw Fernandez sitting cross legged in her driveway. Fernandez was talking on the phone about killing herself, crying, and having a "very heated conversation." Kathie called 9-1-1 and reported that she saw Fernandez holding a large black handgun to her head. Later, Kathie heard officers repeatedly order Fernandez to put her gun down. Fernandez kept saying, "Kill me. Just shoot me." Kathie did not see the officer involved shooting or the moments leading up to it.

Officer Csicsai

BWV

Csicsai's BWV captures when he and Azurrin first contact Fernandez in Kathie M.'s driveway. Csicsai identifies them as the police and orders her to put her gun down. Csicsai introduces himself as "Blake" and tells Fernandez that he is "here to help you." Fernandez says she is going to shoot herself. She does not comply with Csicsai's commands to put down her gun.

During the next 20 minutes, officers continue pleading with Fernandez to put her gun down and asking how they can help. Fernandez continues telling officers to shoot her.

Approximately 13 minutes into the standoff, Fernandez walks slowly toward Csicsai and Officer Houser, who are positioned in the middle of the street. They yell at Fernandez to stop, which she eventually does. Fernandez stays in Kathie's driveway holding the gun to her head.

At 8:06 a.m., 20 minutes into the standoff, Fernandez stands up and walks quickly toward Csicsai yelling, "Shoot me!" She moves the gun away from her head, pointing it in the air with her elbow bent ninety degrees. Csicsai immediately says, "Shit!" and fires five shots at her within three seconds.¹ After the second shot, Fernandez, standing, hunches forward and drops the gun. She remains hunched over within grasp of the gun until the continuing volley appears to cause her to straighten up: Fernandez jerks upright apparently in reaction to being struck by gunfire. Fernandez then walks back to the grass median, away from the gun now lying in the street, and falls to the ground.

¹ Stop signal reaction time refers to how long a shooter takes to stop shooting after a threat ceases. In controlled experiments large majorities of participants will fire one to three "extra shots," and time lags over one second are common. Alexander Jason, *Shooting Dynamics: Elements of Time & Movement in Shooting Incidents*, Investigative Sciences Journal, Volume 2, Number 1, January 2010 (sixty-nine percent of study participants fired extra shots after stop signal given); Scott L. Sargent, 2012 WL 11838653 (N.D.Ill.) (Defense Expert Report) (studies showing that officers may take over one second to stop shooting).



Figure 1: Still image from Csicsai's BWV showing Fernandez sitting on the grass median holding the gun to her head.



Figure 2: Still image from Csicsai's BWV showing Fernandez walking into the street with the gun to her head.

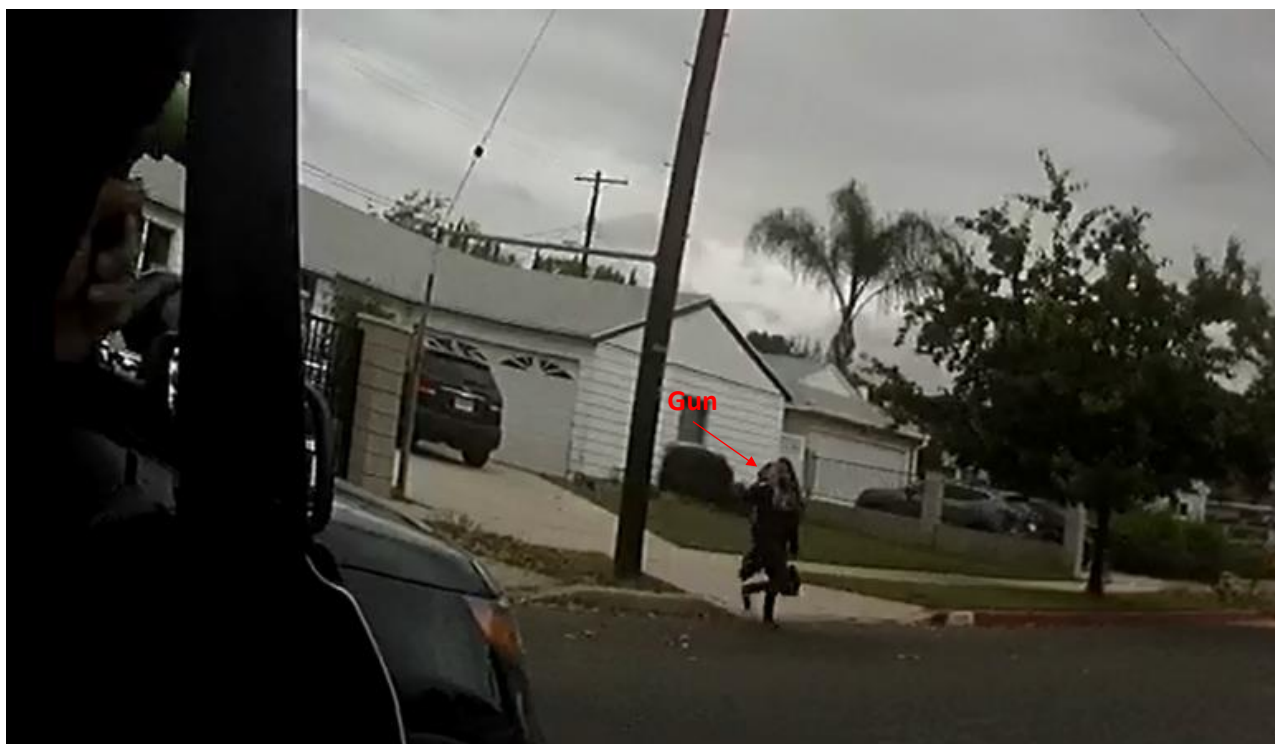


Figure 3: Still image from Csicsai's BWV showing Fernandez walking toward Csicsai with the gun to her head.



Figure 4: Still image from Csicsai's BWV showing Fernandez moving the gun away from her head as Csicsai says, "Shit!"



Figure 5: Still image from Csicsai's BWV showing Csicsai firing the first round as Fernandez walks toward him with the gun in the air.

Officer Houser

Statement

Houser was standing to Csicsai's left with a similar view of Fernandez. Houser did not see Fernandez move the gun from her head until she dropped it after being shot.² He believed she dropped her gun after the first round was fired.

² Houser's statement that Fernandez never moved the gun from her head prior to the shooting is contradicted by his BWV and Csicsai's BWV, which both show Fernandez move the gun away from her head. Gan and Hammers also saw Fernandez lower her gun before Csicsai fired.

BWV



Figure 6: Still image from Houser's BWV showing the gun mid-air falling to the ground after the second round is fired.

Statement of Officer Gan

Officer Gan saw Fernandez lower her gun to waist level and point it at Csicsai when the shots began. Gan did not see when Fernandez dropped her gun.

Statement of Officer Hammers

Officer Hammers saw Fernandez "rotating" toward Csicsai and "bringing her arm down with the firearm" when he heard gunshots.

Scene Photos



Figure 7: Photo after the incident showing where Fernandez dropped the gun and the gun box.

Fernandez

Fernandez sustained five gunshot wounds: one to her chest (missing her vital organs), two to her front right arm, one to her left elbow (fracturing her radius and ulna bones), and one to her front left thigh. Fernandez survived and has been charged, in case number LA090587, with Penal Code section 245(d)(1), assault with a semiautomatic firearm on a peace officer.

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.

A person may use all the force in self-defense that she believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury that 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 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.

The right to self-defense is the same whether the danger is real or apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577, 580. “An officer is not constitutionally required to wait until he sets eyes upon the weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun.” *Thompson v. Hubbard* (2001) 257 F.3d 896, 899. “[A]n officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack. In these circumstances, the Courts cannot ask an officer to hold fire in order to ascertain whether the suspect will, in fact, injure or murder the officer.” *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 345.

ANALYSIS

All evidence suggests Fernandez wanted to commit “suicide by cop” and to place the police in a position where they felt they had to shoot her. She spent 20 minutes holding a gun to her head telling officers to shoot her. When the officers held their fire, she stood up, quickly walked toward Csicsai, and moved the gun away from her head, pointing it in the air—all in about three seconds. A reasonable person in Csicsai’s position would conclude—after Fernandez started walking toward him and moving the gun away from her head—that she was about to point and fire the gun at him to force officers to kill her. Under these circumstances, it was reasonable for Csicsai to believe he was in imminent danger of being killed and therefore his decision to use deadly force was reasonable.

CONCLUSION

We find that Officer Csicsai acted lawfully in self-defense when he used deadly force against Julie Fernandez.