

Fatal Officer Involved Shooting of Victor Valencia

Los Angeles Police Department

Sergeant Colin Langsdale, #38006

J.S.I.D. File #20-0007



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 28, 2021

MEMORANDUM

TO: COMMANDER RICH GABALDON
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, CA 90012

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Victor Valencia
J.S.I.D. File #20-0007
L.A.P.D. File #F003-20

DATE: October 28, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 11, 2020, fatal shooting of Victor Valencia by Los Angeles Police Department (LAPD) Sergeant Colin Langsdale. We have concluded that Sergeant Langsdale acted in lawful self-defense and the defense of others when he fired his duty weapon.

The District Attorney's Command Center was notified of this shooting on January 11, 2020, at approximately 4:04 p.m. The District Attorney Response Team (DART) responded to the location, where they received a briefing and walk-through of the scene.

The following analysis is based on police reports, 9-1-1 calls, radio transmissions and records, body worn video (BWV), digital in-car video (DICVS), surveillance video, recorded interviews, crime scene photographs and diagrams, coroner's and other reports submitted to this office by the LAPD Force Investigation Division (FID). Langsdale's compelled statement was not considered in this analysis.

FACTUAL ANALYSIS

On January 11, 2020, at 12:36 p.m., a 9-1-1 caller reported seeing a man walking while armed with a small, black firearm in his left hand near the intersection of Sepulveda Boulevard and Venice Boulevard.¹ At 12:40 pm., LAPD dispatch broadcast, "415 man with a gun, Sepulveda and Venice." Officer Emery Newsom and Officer Daniel Seals were assigned to the call and requested an Air Unit. At 12:43 p.m., Sergeant Colin Langsdale, who was working at the LAPD Pacific Station, informed dispatch he was responding to the call. Several additional LAPD units, including Officer Alejandro Ferreras and his partner Officer Brian Kolke, Officer Pedro

¹ Venice Boulevard runs east-west, and Sepulveda Boulevard runs north-south. A Shell gas station is located at the southwest corner of Venice Boulevard and Sepulveda Boulevard. Tuller Avenue runs north-south on the west side behind the Shell station, one block west of Sepulveda Boulevard.

Magallanes and his partner Officer Joseph Loera, and Officer Michael Putrah and his partner Officer Zera Gregoire, were dispatched to the area. All officers were wearing full police uniform and driving marked, black-and-white patrol vehicles.

At 12:47 p.m., a second 9-1-1 caller reported seeing a man waving a small, black handgun while walking on the sidewalk on Sepulveda Boulevard and Venice Boulevard. LAPD Air Unit 18 arrived over the intersection at 12:47 p.m. At 12:49 p.m., Langsdale informed dispatch he was in the area of the call. Seconds later, dispatch broadcast details from the second 9-1-1 call regarding a man waving a black handgun in the air on the sidewalk on Sepulveda Boulevard.² Newsom, Ferreras, and Magallanes, who were driving separate patrol vehicles, turned southbound onto Sepulveda Boulevard from Venice Boulevard and stopped in front of the Shell station. At 12:51 p.m., Langsdale broadcast, “I got a suspect here. He’s gonna be on the corner of Tuller and Venice.” The man, who was later identified as Victor Valencia, walked westbound on the sidewalk north of the Shell station, while holding a black metal object. Several pedestrians were standing near a taco truck or walking behind Valencia on the sidewalk along Venice Boulevard. Eastbound traffic on Venice Boulevard was congested due to construction. Langsdale parked his marked, black-and-white sports utility vehicle (SUV) eastbound in the far right lane of Venice Boulevard near the southwest corner of Tuller Avenue. Langsdale exited his SUV, stood behind the open driver’s door and gave Valencia commands. Valencia pointed the black metal object in Langsdale’s direction, and Langsdale fired six rounds from his duty weapon at Valencia. Valencia fell backwards onto the sidewalk holding the black metal object in his left hand.

Newsom, Ferreras, and Magallanes heard gunfire, turned into the parking lot of the Shell station and parked.³ Simultaneously, Air 18 broadcast, “This guy is very 415 here... Units watch your crossfire going into the Shell station.”⁴ Newsom broadcast, “Shots fired! Shots fired!”⁵ Air 18 broadcast one suspect was down and requested an ambulance. Ferreras and Kolke exited their patrol vehicle and took cover behind a tree on the sidewalk next to the taco truck. Magallanes and Loera ran westbound along Venice Boulevard and took cover behind Langsdale’s SUV. Newsome and Seals took cover behind the taco truck. Putrah drove through the Shell station parking lot and parked westbound on Venice Boulevard. Gregoire and Putrah exited their patrol vehicle and initially took cover behind cars stopped along Venice Boulevard. Putrah escorted Sheela B., who was crouching behind her car parked behind the taco truck, to safety.

² At 12:51 p.m., a third 9-1-1 caller reported a man acting erratically, making bizarre gestures, and waving and pointing what appeared to be a handgun at people. Information from the third 9-1-1 caller was not broadcast until after the shooting occurred.

³ Newsom, Seals, Magallanes, Loera, Ferreras and Kolke heard gunfire but did not see Langsdale fire his weapon.

⁴ DICVS from several LAPD patrol vehicles show the gunfire occurred before this Air 18 broadcast.

⁵ Pacific Frequency captured part of Newsom’s broadcast.

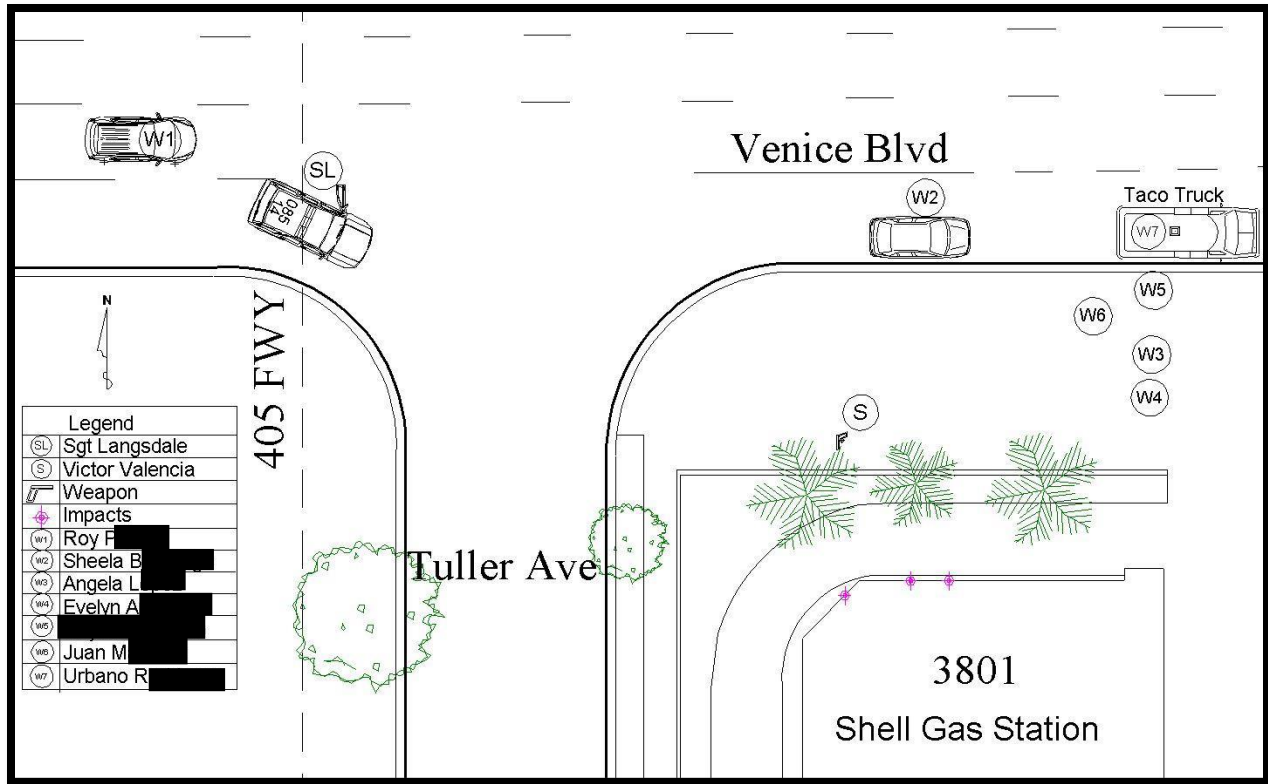


Diagram of the scene.

Langsdale drove his SUV forward toward the southeast corner of Tuller Avenue and Venice Boulevard. Putrah, Gregoire, Newsom, Seals, Ferreras, and Kolke repositioned themselves behind Langsdale's SUV. Langsdale requested a shield and the officers devised a plan to approach Valencia to determine whether he was armed. Air 18 broadcast a handgun was lying next to Valencia's left hand. Seals, Gregoire, Newsom, Putrah, Magallanes and Langsdale moved onto the sidewalk, approaching Valencia's right side. The officers were unable to determine whether there was a weapon on Valencia's left side. Newsom walked several feet around to Valencia's left side but could not determine whether there was a weapon. Seals, Gregoire, Newsom, Putrah, Magallanes, Langsdale, Ferreras, Loera and Kolke advanced, handcuffed and searched Valencia. A black metal object was lying on the sidewalk next to Valencia's left side.⁶ Los Angeles Fire Department (LAFD) and Culver City Fire Department (CCFD) arrived and rendered medical aid. Valencia was transported to the Ronald Reagan UCLA-Medical Center, where he was pronounced deceased at 1:26 p.m.

Statement of Brown

Brown was assigned to LAPD Air Support Division as a Tactical Flight Officer on Air 18. Brown and his partner, pilot Sergeant Derrick O'Donnell, arrived at the scene approximately thirty seconds after Langsdale broadcast he had located Valencia at Venice Boulevard and Tuller Avenue. Langsdale's SUV was parked on Venice Boulevard facing southeast, across from

⁶ Several officers told investigators they believed the black metal object was a handgun when they first observed it from a distance.

where Valencia was standing on the southeast corner of Venice Boulevard and Tuller Avenue. Langsdale was standing outside the SUV's driver's door approximately ten to 15 feet from Valencia. From 500 to 600 feet above, Brown observed Valencia waving his hands erratically towards Langsdale, walk eastbound and stop, and turn back facing Langsdale.⁷ As the airship circled north, a tree blocked Brown's view of Valencia. At the same time, three marked, black-and-white patrol vehicles were positioned along Sepulveda Boulevard east of the Shell station. Brown advised those police units of the potential for crossfire. As the airship circled over the 405 freeway, Brown saw Valencia lying on the ground and heard an officer advise shots had been fired.⁸ Brown broadcast a call for help and requested an ambulance. Using binoculars, Brown observed what he believed was a black, semiautomatic handgun lying on the sidewalk next to Valencia's left hand, which he broadcast to the officers on the ground.

Statement of Newsom

Newsom and his partner, Seals, responded to initial call regarding a man with a gun. Newsom circled the area looking for a person matching the description. Newsom's concern regarding the situation was heightened when he heard the broadcast of a second caller reporting a man with a gun. Newsom was stopped on Sepulveda Boulevard when Langsdale broadcast he located the suspect at Tuller Avenue and Venice Boulevard. Newsom turned into the Shell parking lot and heard two to five gunshots. Newsom parked and broadcast, "Officer needs help. Shots fired at Venice and Tuller." Newsom, Seals, and other officers moved towards a taco truck. Newsom saw Langsdale standing near his patrol vehicle approximately 25 feet from where Valencia was lying on the sidewalk. Newsom could not determine whether Valencia was injured or possessed a weapon. After the officers advanced onto the sidewalk, Newsom walked around to Valencia's left side but could not see whether there was a weapon underneath him. When the officers lifted Valencia, Newsom saw what he believed to be a handgun under Valencia's left hand. Newsom could not determine whether the object was a real handgun, a "zip gun," or a fake handgun while standing approximately ten feet from Valencia.⁹

Statement of Roy P.

At the time of the incident, Roy P. was stopped in traffic in the center lane heading eastbound on Venice Boulevard. Roy P. saw Langsdale standing behind the open driver's door of a patrol vehicle with his weapon drawn. Langsdale was ten feet from the passenger side of Roy P.'s car. Valencia was pacing back and forth on the sidewalk approximately ten to 20 feet from Langsdale's patrol vehicle. Roy P. did not notice anyone walking in the area but saw a woman (Sheela B.) parking along Venice Boulevard. Valencia was brandishing a dark, metal weapon, which Roy P. believed was a handgun. Roy P. thought the weapon did not appear to be loaded.¹⁰ Valencia seemed to be under the influence or mentally ill. Langsdale yelled at Valencia, drawing his attention. Valencia held the weapon sideways, pointed the weapon in Langsdale's direction and mimicked firing it. There was a brief pause before multiple rounds were fired, and

⁷ Brown was unable to see whether Valencia was holding anything in his hands at this time.

⁸ Brown did not hear the gunshots or see the officer-involved shooting.

⁹ Newsom described a "zip gun" as a hand-made gun with a black handle, a cylinder and a firing pin.

¹⁰ Roy P. said he did not know about guns but thought the object looked "beat up" as though it would not fire. Roy P. said Valencia was wearing long sleeves, which obstructed his view of the weapon.

Valencia fell to the ground. Roy P. did not see which officer fired at Valencia and said the entire incident happened very fast.¹¹ Immediately after the gunfire, several officers converged on the area and approached Valencia with shields, blocking Roy P.'s view.

Statement of Sheela B.

When Sheela B. exited her car parked behind the taco truck along Venice Boulevard, she heard someone yelling at her to get down. Sheela B. saw a police SUV arrive and park 15 feet west of her at Tuller Avenue. Langsdale was standing on the driver's side of the SUV yelling at someone. Sheela B. looked over and saw Valencia standing on the sidewalk waving a handgun at Langsdale. Sheela B. described the handgun as a black "strange looking pistol" with a long, narrow muzzle. Sheela B. thought Valencia was going to shoot someone and crouched down behind her car about ten feet from Valencia. Valencia walked towards Sepulveda Boulevard, turned around and pointed the handgun at Langsdale. Sheela B. believed Valencia was going to shoot Langsdale. Sheela B. heard five to six gunshots. Valencia fell onto his back and began shaking.¹² Another officer moved Sheela B. away from her car.

Statement of Angela L.

Angela L. was walking with a friend on the sidewalk next to the Shell station when she heard several police cars approaching. Approximately ten feet in front of her, Angela L. saw Valencia violently waving his arms in the air above his shoulders while holding a dark object in his left hand. Angela L. heard Langsdale, who was standing next to a police car 15 to 20 feet in front of Valencia, giving Valencia orders. Angela L. could not hear what Langsdale said but described his demeanor as calm. When Valencia continued waiving and moving his arms up, Langsdale drew his handgun from the holster. Angela L. turned and lunged to the ground before hearing two to three gunshots.

Statement of Urbano R.

Urbano R. was working inside the taco truck when Valencia walked by holding a black object in his hand, pointing it as though it was a handgun. From his vantagepoint, Urbano R. believed the object was a plastic toy gun. Urbano R. saw several police officers pointing their weapons at Valencia, heard four to five gunshots, and saw Valencia fall down holding the black object in his hand. The day before the incident, Urbano R. saw Valencia walking in the area pretending his hand was a handgun.

Statement of Juan M.

Juan M. was ordering food at the taco truck when he heard police sirens. Juan M. saw Langsdale park behind the taco truck and heard Langsdale speak to Valencia but could not hear what was said. Valencia was facing Langsdale, holding something black resembling a handgun in his right hand near his waist. Juan M. heard gunshots but did not see Langsdale fire his weapon.

¹¹ Roy P. provided a description of the officer he believed fired his weapon which did not describe Langsdale.

¹² Sheela B. did not see which officer fired his weapon and described hearing two different kinds of gunfire.

Video Evidence

Shell Station Surveillance Video

Investigators recovered video surveillance from the Shell station located on the 3800 block of Sepulveda Boulevard. Video surveillance shows Valencia holding a black, handgun-shaped object in his left hand as he walks briskly through the Shell station's parking lot. Valencia moves erratically, repeatedly waving and pointing the black object in front of him. Several customers are seated inside their cars or are entering the Shell station building nearby.



Still photo from a Shell station camera showing Valencia pointing a black object.

A surveillance camera located on the north side of the Shell station shows Valencia walking westbound on the sidewalk past a taco truck parked along Venice Boulevard. Valencia is holding a black object in his right hand across his chest as he walks out of the video frame. Two men are standing on the sidewalk next to the taco truck and two women are walking westbound. The two women suddenly stop and begin to move backward. A cloud of smoke enters the bottom of the video frame. Valencia falls backwards into the video frame holding a black, handgun-shaped object in his left hand.



Still photo from the Shell station's north-facing camera, showing Valencia holding a black, handgun-shaped object after falling onto the sidewalk.

Langsdale BWV

Langsdale was equipped with a department issued BWV. Langsdale placed his BWV in stand-by mode at 12:51 p.m. and pushed the record button at 12:52 p.m. Langsdale's BWV did not capture the shooting.¹³ Langsdale's DICVS was not activated.

¹³ Langsdale's BWV had a 30 second buffer.



Still photo from Langsdale's BWV after being activated.

Evidence

LAPD criminalists recovered five discharged 9mm caliber cartridge casings from Langsdale's SUV and one discharged 9mm caliber cartridge casing from the eastbound lane of Venice Boulevard. Criminalists identified three penetrating bullet impacts on the north wall and one non-penetrating bullet impact on the northwest wall of the Shell station. Criminalists recovered one fired bullet from the north sidewalk and one fired bullet from the carwash driveway near the northwest wall of the Shell station. A broken glass pipe and a black metal object were recovered where Valencia had been lying on the sidewalk. Investigators determined the black metal object was a stem post removed from the handle bar of a Schwinn bicycle.



The black metal object recovered at the scene.

The black metal object was tested for fingerprints and biological material, which criminalists determined matched Valencia.

Postmortem Examination

On January 14, 2020, Los Angeles County Associate Deputy Medical Examiner Robyn Parks and Deputy Medical Examiner Kendra Palmer performed a postmortem examination of Valencia. Valencia suffered one perforating gunshot wound to the chest. The bullet entered the left lateral chest and exited the right upper chest. The direction of the bullet was left to right, back to front, and upward. The cause of death was a gunshot wound. The toxicology report identified marijuana and methamphetamine in Valencia's system.

LEGAL ANALYSIS

On August 19, 2019, Governor Gavin Newsom signed California Assembly Bill 392. Assembly Bill 392 modified California use of force law, Penal Code sections 196 and 835a, and became operative on January 1, 2020. This case is being analyzed pursuant to the new law.

A peace officer is justified in using deadly force upon another person 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).

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 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).

Under the new use of force law, the reasonableness of an officer's use of deadly force is analyzed using a reasonable officer standard, not the reasonable person standard that was previously applied and articulated in *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. 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.

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. 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 the person perceived need not to have actually existed. A prior threat or harm to the person or others can be considered when determining whether a person’s conduct and beliefs were reasonable. *Id.* A person is not required to retreat. He is entitled to stand his ground and defend himself and, if reasonably necessary, to pursue an assailant until the danger of death or bodily injury has passed. This is so even if safety could have been achieved by retreating. The People have the burden of proving beyond a reasonable doubt that the person did not act in lawful self-defense or the defense of another. *Id.* The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

The evidence supports the conclusion that Langsdale reasonably believed Valencia posed an imminent threat of death or serious bodily injury to him and others and acted in self-defense and the defense of others when he fired his duty weapon. Several 9-1-1 callers reported seeing Valencia walking and pointing a small, black handgun at people near Venice Boulevard and Sepulveda Boulevard. Shell station surveillance video shows Valencia holding a small, black object shaped like a handgun, repeatedly aiming it in front of him as though it was a handgun. As Valencia walked on the sidewalk holding the black object, several people were near him or were stopped in their cars. Eyewitnesses saw Valencia holding what they believed was a handgun, heard Langsdale give commands to Valencia, and saw Valencia point the object directly at Langsdale before Langsdale fired his weapon. The pathway of the bullet, entering Valencia’s left lateral chest and exiting his right upper chest, is consistent with the left side of Valencia’s body being positioned towards Langsdale when Langsdale fired his weapon. Surveillance video shows Valencia falling backwards onto the sidewalk gripping a black, handgun-shaped object in his left hand. After the shooting, other officers believed the black object was a handgun when observing from a distance.

Based on the totality of the circumstances, it was reasonable for Langsdale to conclude Valencia posed an imminent threat of death or serious bodily injury to himself and others. The fact that the black object was later determined to be a bicycle part does not alter the reasonableness of Langsdale’s actions. The evidence supports the conclusion that Langsdale acted in lawful self-defense and the defense of others.

CONCLUSION

We find Sergeant Langsdale acted in lawful self-defense and the defense of others when he fired his duty weapon.