

**Non-Fatal Officer Involved Shooting of Alvaro Jimenez**  
**Los Angeles County Sheriff's Department**

**Deputy Luis Cano, #526344**

**J.S.I.D. File #18-0457**



**Justice System Integrity Division**

**November 16, 2020**

**MEMORANDUM**

TO: CAPTAIN KENT WEGENER  
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 Alvaro Jimenez  
J.S.I.D. File #18-0457  
L.A.S.D. File #018-08235-0381-055

DATE: November 16, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 27, 2018, non-fatal shooting of Alvaro Jimenez by Los Angeles County Sheriff's Department (LASD) Deputy Luis Cano. It is our conclusion Deputy Cano acted in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on October 27, 2018, at approximately 5:00 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LASD Lieutenant Rodney Moore.

The following analysis is based on reports, recorded interviews, photographs, and sketches submitted to this office by LASD Homicide Bureau Investigators Timothy Ruggiero and Robert Gray. The voluntary statement of Deputy Cano was considered as part of this analysis.

**FACTUAL ANALYSIS**

On October 27, 2018, at approximately 3:30 a.m., Deputies Cano and Manuel Ibarra were both on patrol in LASD uniforms sitting in a marked black and white police vehicle parked at a corner in the City of Lennox. A woman pulled up to their patrol vehicle and informed them that there was a group of people who were drinking and being loud, about mid-block, one street over on South Burin Avenue.<sup>1</sup> She requested that Cano and Ibarra help to disperse the group.

Ibarra drove to the area on South Burin Avenue and parked about midblock. Ibarra noticed a group of people on both sides of the street who were drinking alcoholic beverages. Ibarra exited

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<sup>1</sup> The location where the people were drinking and being loud is a residential area.

the vehicle and approached the group that was standing on the east sidewalk. Cano, who was sitting in the passenger seat, exited the vehicle and approached the group on the west sidewalk.

Upon exiting the vehicle, Cano immediately saw a man wearing a green jacket, later identified as Alvaro Jimenez, walk south away from the group situated on the west sidewalk. While walking away, Cano observed Jimenez remove a long rifle from the front of his pants and turn towards Cano. Cano stated, "I was thinking he's going to shoot me with that big old rifle, me and my partner, and we only have handguns." In response, Cano drew his duty weapon and fired at Jimenez three to four times. Jimenez was not struck by gunfire and ran southbound on the sidewalk, still holding the rifle.

Jimenez again turned towards Cano and pointed the rifle at him. Cano stated, "And then as he's running, he's still like turning towards me as if he's pointing like he wants, he's going to fire towards me." Cano fired additional rounds at Jimenez, striking him multiple times in both legs.<sup>2</sup> Jimenez dropped the rifle and fell to the ground. Cano handcuffed Jimenez and the group of people on both sides of the street became unruly.

Ibarra ran towards the location, stood over Jimenez' rifle, and commanded the crowd to stand back. Ibarra then radioed for police backup and for a rescue ambulance. Additional units and a rescue ambulance arrived. Jimenez was treated at the scene and transported to UCLA Harbor Medical Center for his non-life threatening injuries.

Jimenez' semiautomatic AK-47 rifle was located at the scene. Investigators later examined the rifle and determined it was not loaded. See Figure 1.



Figure 1: Jimenez' AK-47 recovered at the scene.

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<sup>2</sup> Cano's weapon was a 9mm Beretta semiautomatic firearm. Cano fired his duty weapon a total of 11 times during this incident.

Numerous witnesses were interviewed at the scene. Several refused to give statements. A majority stated they only heard the gunshots but did not see or hear the proceeding events. One witness, Brandon D. observed the deputies arrive and Jimenez flee on foot. He observed Cano fire his weapon at Jimenez but told investigators he did not know why Cano fired his weapon.

A final witness Sabrina G., observed Jimenez run after the deputies arrived, heard about seven to eight gunshots, and hid behind a car. Afterwards she saw Jimenez on the floor. She never mentioned seeing Jimenez with a gun, but stated that before the deputies arrived, she spoke to Jimenez. While speaking with him, Sabrina G. observed a belt strap on Jimenez' shoulder, but she did not see what was attached to it.

### **Surveillance Footage**

Antonio R. provided surveillance footage from his residence near the location. Antonio R. showed the investigators the video at the scene, but the video was not collected immediately following the incident and was no longer available by the time investigators tried to obtain a copy. As such, this office did not review the recording.

Per Antonio R., the video quality was poor due, in part, to how dark it was outside. The video appeared to show Jimenez holding a large object, "Perhaps a rifle, at the low ready." In his interview, Antonio R. stated the video captured Jimenez with a large object about one minute before the shooting occurred.

### **Charges filed on Jimenez**

Following his arrest, Jimenez was charged in case YA099160 with two felonies. The charges included exhibiting a firearm in the presence of an officer, in violation of Penal Code § 417(c) and possession of a firearm by a felon, in violation of Penal Code § 29800(a)(1).

This case was tried by a jury. On December 20, 2019, the jury stated it was hung on both charges.

On January 31, 2020, Jimenez pled no contest to a misdemeanor disturbing the peace, in violation of Penal Code § 415(2).

## **LEGAL ANALYSIS**

### **The Law**

California Law permits the use of deadly force in self defense or in the 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; CALCRIM No. 505; *See also* 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.

In protecting oneself or another, a person may use all the force that he or she believes is 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 belief were reasonable, the danger does not need to have actually existed. Id.

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code § 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

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.

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 § 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. An officer may only resort to the use of deadly force when the resistance to compliance or arrest “appears to the officer more 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.

“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 resorted to other means to secure his safety.” People v. Collins (1961) 189 Cal.App.2d 575, 589.

## **Analysis**

The evidence examined in this investigation shows Cano and Ibarra were flagged down by a woman complaining of a group of individuals who were loudly drinking on a residential street in the early morning hours. The deputies proceeded to investigate and saw Jimenez walk away from the group holding a rifle.

Cano observed Jimenez remove a long rifle from his pants and turn his body towards Cano. In response, Cano drew his service weapon and fired at Jimenez. Jimenez ran away from Cano, but turned and pointed the rifle at Cano. In fear for his life, Cano fired his service weapon again, this time striking Jimenez multiple times in both legs.

Under this rapidly unfolding situation, it was reasonable for Cano to believe that Jimenez posed a deadly threat to himself. As such, his decision to use deadly force in order to protect himself was reasonable. Although it was later determined that Jimenez' weapon was not loaded, this fact does not change the reasonableness of Cano's decision to use deadly force.

## **CONCLUSION**

We find that Deputy Cano acted lawfully in self-defense when he fired at Jimenez. We are closing our file and will take no further action in this matter.