

Fatal Officer Involved Shooting of Bryan Rodriguez
Los Angeles Police Department

Officer Tomas Salazar, #39664

J.S.I.D. File #18-0224



Justice System Integrity Division

November 16, 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 Bryan Rodriguez
J.S.I.D. File #18-0224
F.I.D. File #F035-18

DATE: November 16, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 30, 2018, fatal shooting of Bryan Rodriguez by Los Angeles Police Department (LAPD) Officer Tomas Salazar. We have determined that Officer Salazar acted in lawful self-defense and defense of others when he used deadly force against Rodriguez.

The District Attorney's Command Center was notified of this shooting on May 30, 2018, at approximately 2:08 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 camera recordings, photographs, and audio-recorded interviews of witnesses submitted by the LAPD Force Investigation Division. The compelled statement of Officer Salazar was not considered in this analysis.

FACTUAL ANALYSIS

On May 29, 2018, at approximately 11:30 p.m., Jose A. arrived to his residence on Telfair Avenue in Pacoima. Jose A. was renting a room in a house shared by Yolanda R., Rodriguez's aunt. When Jose A. arrived at the house, he was met by Yolanda R., Rodriguez, and Rodriguez's girlfriend. Jose A., who had never met Rodriguez or his girlfriend, was introduced to them and invited to join them as they were drinking alcoholic beverages. Jose A. declined and went to sleep.

A short while later, Rodriguez banged on Jose A.'s door, opened it, and verbally confronted Jose A. about hurting Yolanda R. Yolanda R. intervened and convinced Rodriguez that Jose A. was not the person who had hurt her. Concerned for his safety, Jose A. attempted to leave the house. Rodriguez followed Jose A. and confronted him at the front gate of the driveway. Rodriguez

punched Jose A. in the face and stated, “You’re going to die! Die motherfucker!” Rodriguez then stabbed Jose A. with a knife in the stomach. Jose A. ran back inside the house with the knife still imbedded in his stomach. He locked the door and called 9-1-1. Jose A. reported that he had been stabbed and the person who had stabbed him was outside his house.

Uniformed LAPD officers arrived at the house several minutes later, and observed Rodriguez, his girlfriend, and Yolanda R. standing outside the house. The police escorted the women away from the location. Rodriguez ignored several commands to take his hands out of his pockets and to place them over his head. He remained near two cars parked under the carport of the driveway near the house. Jose A. was inside the house leaning on the front door of the house and keeping pressure on his stab wound. The officers were aware that Jose A.’s was inside the house and that he needed immediate medical attention.

Officers gave Rodriguez multiple commands to surrender. They also warned him several times that they may be forced to use a Taser or beanbag shotgun if he did not surrender. Rodriguez did not follow their directions. At approximately 12:00 a.m., several officers approached up the driveway toward Rodriguez. The officers repeatedly told Rodriguez to step out from behind the cars with his hands up. Rodriguez did not follow any commands. Two officers unsuccessfully attempted to tase Rodriguez. Two other officers fired beanbag rounds at Rodriguez. Rodriguez grabbed a chair and threw it at one of the officers who had fired beanbags at him. Another officer attempted to tase Rodriguez, without any apparent effect on him. Rodriguez cursed at the officers and picked up a large ceramic pot and shattered it on the ground. Rodriguez picked up large pieces of the broken pot and threw them at the officers, striking one officer in the head and another in the lower leg.

Rodriguez climbed from the hood of an SUV parked under the carport onto the roof of the house. The officers set up a perimeter and rescued Jose A. Salazar armed himself with a rifle and took a position in front of the house. At approximately 12:36 a.m., Rodriguez climbed down near the rear of the house and another officer reported over the radio that Rodriguez was “armed with a pick or some type of axe.”

Rodriguez, armed with a pickaxe, climbed over a fence into a neighbor’s yard cluttered with tents. Rodriguez grabbed various items from the tents and threw them at the officers. Rodriguez climbed back over the fence into the yard of his aunt’s house. Rodriguez continued to throw items, including bricks, metal objects, and chairs, at the officers in the neighboring yard. Rodriguez struck an officer’s forearm with a chair.

At approximately 12:42 a.m., an officer broadcast that Rodriguez was holding a pickaxe. Officers ordered Rodriguez to drop the pickaxe and an officer fired a less-lethal 40-millimeter launcher at Rodriguez striking him. Rodriguez maintained control of the pickaxe. At approximately 12:49 a.m., Rodriguez began striking the rear door of the house with the pickaxe. Unbeknownst to officers at the time, that door was the only access to an occupied room at the rear of the house. The residents were awakened and called 9-1-1 to report what was happening. One of the residents held the door closed to prevent Rodriguez from making entry. Rodriguez shattered a window, and an officer heard a woman screaming. Believing that additional people

were possibly inside the house, the officer notified the sergeant at the scene, and the information was broadcast over the radio to other officers at the scene.

Rodriguez exited the side gate, walking around and into the front door of the house. Fearing for the safety of additional residents inside the house, several officers formed a plan to enter the house and assembled on the sidewalk near a cinderblock wall just north of the driveway leading up to the house.¹

Salazar and Officer Ryan Morby were taking cover behind a police car parked in the street in front of the house. Salazar was armed with a department issued rifle. Morby was providing cover for Salazar as Salazar was focused on the front of the house. Prior to Rodriguez re-entering the house from the front, Morby had heard over the radio that Rodriguez was attempting to break a window to the rear of the house and that additional people were inside the house. Morby saw Rodriguez “pop” his head in and out of the front door several times, exit the house, and walk toward Salazar and himself at a fast pace while holding the pickaxe in his right hand above shoulder level. At approximately 12:56 a.m., Salazar is heard on his BWV alerting the other officers that Rodriguez was “coming out the front door.”

Salazar yelled, “Drop the axe! Drop the axe!” Morby stated he believed Rodriguez could harm him and Salazar with the pickaxe even though the officers were taking cover behind a police car. Morby was concerned that Rodriguez could close the distance between them quickly as Rodriguez was “charging” at them and prior efforts of less lethal force had failed. Morby heard a gunshot coming from Salazar’s position, and saw Rodriguez fall to the ground in the driveway as he held onto the pickaxe.

Although Salazar’s and Morby’s BWVs were activated, Rodriguez’s movements immediately prior to the shooting were obstructed by the police car behind which they were taking cover. Salazar fired his rifle one time at Rodriguez from approximately 48 feet. Salazar’s BWV depicts his approximate location in the residential street as he moved in front of the police car toward Rodriguez after firing his service weapon. Rodriguez was arrested and the pickaxe was retrieved. Rodriguez was transported to the hospital, where he succumbed to his injury.

¹ The officers believed the house was a single residence and were not aware that the rear room was not accessible from the front door of the house.



Salazar's BWV as Salazar walked around the police car after shooting Rodriguez (circled).



Pickaxe photographed in the driveway.

On June 1, 2018, an autopsy was conducted, and the medical examiner determined that the cause of Rodriguez's death was a gunshot wound to the torso. Toxicology analysis determined the presence of marijuana, methamphetamine, and amphetamine in Rodriguez's blood system. A heart blood sample also indicated a blood alcohol concentration level of .029 percent.

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.* If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.* A deadly weapon is any object, instrument, or weapon that is inherently deadly or one that is used in such a way that it is capable of causing and likely to cause death or great bodily injury. CALCRIM No. 875.

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.

When LAPD officers arrived at the house on Telfair Avenue, they had specific information from radio communications that Rodriguez was armed with a knife, which he had used to stab Jose A., who was inside the house and in need of medical attention. For several minutes, uniformed police officers instructed Rodriguez to surrender peacefully. Rodriguez did not follow the officers' commands, and officers used less-lethal force in their efforts to apprehend Rodriguez and rescue Jose A., who was still inside the house.

Rodriguez threw various items at the officers and climbed on the roof of the house. Officers surrounded the house, and Rodriguez continued to assault officers by throwing chairs and bricks at them from the backyard. Rodriguez armed himself with a pickaxe and attempted to enter the house through the backyard, which led officers to believe additional residents were inside the house.

Rodriguez reentered the house through the front door as Salazar and Morby were positioned in front of the house. Rodriguez repeatedly "popped" his head in and out of the front door, behavior consistent with acquiring a target for attack, before he exited the front door of the house and quickly walked toward Salazar and Morby holding a pickaxe above shoulder level. Salazar loudly and clearly commanded Rodriguez to, "Drop the axe! Drop the axe!" as Rodriguez moved closer to Salazar and Morby.

Based on Rodriguez's violent and unpredictable behavior, the evidence supports a reasonable inference that Salazar actually and reasonably believed that Rodriguez's advance with a pickaxe posed an actual and imminent threat of great bodily injury or death to Salazar and his partner, Morby. Salazar fired one round at Rodriguez to stop the deadly threat.

CONCLUSION

We conclude that Officer Salazar's 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.