

In-Custody Death of Victor Flores
Los Angeles County Sheriff's Department

Deputy Pierina Gentile, #551889

Deputy Walter Arcos, #487861

Deputy Jason Aguilera, #536362

Deputy Scott Reynal, #464239

J.S.I.D. File #17-0065



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 13, 2019

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: In-Custody Death of Victor Flores
J.S.I.D. File #17-0065
L.A.S.D. File #017-01793-0451-038

DATE: August 13, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 4, 2017, in-custody death of Victor Flores involving Los Angeles County Sheriff's Department (LASD) Deputies Pierina Gentille, Walter Arcos, Jason Aguilera and Scott Reynal. It is our conclusion that the deputies applied lawful force in detaining Flores and are not criminally liable for his death.

The District Attorney's Command Center was notified of the death on February 4, 2017, at approximately 9:31 p.m. The District Attorney Response Team responded and was given a briefing, a walk-through of the scene and interviewed multiple civilian witnesses.

The following analysis is based on reports submitted to this office by Detectives Richard Tomlin and Daniel Morris, LASD, Homicide Bureau. The deputies provided voluntary statements which were considered as part of this analysis.

FACTUAL ANALYSIS

On February 4, 2017, shortly after 6:30 p.m., Rafael R. was inside the Southland Nursing Home located at 11701 Studebaker Road in the City of Norwalk. While Rafael R. was at the nurse's station, a nurse ran inside the facility and said a "crazy guy" had attacked a nurse and doctor. Rafael R. followed the nurse into the parking lot. Rafael R. observed a man, later identified as Victor Flores, running south on the west sidewalk toward Firestone Boulevard. Rafael R. called 9-1-1.

Rafael R. observed Flores walk to the east side of Studebaker Road. Flores attempted to open the doors to multiple vehicles driving past him, as well as several cars parked on the street. Rafael R. followed Flores in his vehicle. Flores walked into the Walgreens parking lot located at the northeast corner of Studebaker Road and Firestone Boulevard. Flores continued to pull on

the door handles of vehicles in the parking lot. Flores approached Rafael R.'s truck and opened the driver door. Flores grabbed Rafael R.'s foot and attempted to pull him from the vehicle. Rafael R. fought Flores off, who then resumed wandering around the parking lot. Eventually, Flores walked toward a line of vehicles waiting to exit the parking lot.

Three vehicles were lined up waiting for traffic to clear to turn right (north) onto Studebaker Road. Carlos L. and Melissa L. were in the second vehicle and Cristian G., seated in his white pickup truck, was the third vehicle. Flores attempted to open the door to Cristian G.'s truck, but it was locked. Flores then jumped into the bed of the truck. Cristian G. drove around the two vehicles ahead of him and turned northbound onto Studebaker Road.

Flores sat in the bed of the truck and tried to kick out the rear window. Cristian G. feared that Flores was armed and attempting to carjack him. In a panic, Cristian G. accelerated. Flores stood up, pulled down his pants and removed his shirt. Flores then fell backward from the truck and rolled three to four times in the street. Cristian G. called 9-1-1.

Rafael R. observed Flores fall from the truck and noted that he was covered in scrapes. Carlos L. and Melissa L. did not see Flores fall from the truck, but observed him lying in the middle of the street. Melissa L. observed multiple scrapes on Flores, and specifically recalled a large scrape to one of his legs. Rafael R., Carlos L. and Melissa L. watched as Flores rolled himself across the center median and into the southbound lanes of traffic. Flores eventually stood up and ran onto the west sidewalk of Studebaker Road and headed south toward the Chuck E. Cheese restaurant located across from Walgreens.

Rafael R. and Carlos L. made a U-turn and followed Flores as he walked into the Chuck E. Cheese parking lot. Flores entered the restaurant. He was no longer wearing his pants. Rafael R. and Carlos L. parked their vehicles in front of Chuck E. Cheese and followed Flores into the restaurant.¹ Carlos L. grabbed Flores' shirt and Rafael R. grabbed his right arm. They escorted Flores outside the front doors. Rafael R. stated Flores was physically resisting them. Rafael R. held Flores' right arm behind his back and pushed him against the restaurant building. Rafael R. then brought Flores to the ground onto his stomach. According to Rafael R., Flores continued to resist by thrashing his upper body and kicking his legs back toward them. Rafael R. had his left knee on Flores' right hamstring and was holding his right arm with both hands when LASD deputies arrived to the scene.

LASD deputies originally responded to a "man down" call. The call was updated to a "man lying in the middle of the street," then to a "man running away," and finally to a "man running into Chuck E. Cheese naked." LASD Deputies Pierina Gentile and Walter Arcos were the first to arrive. The deputies observed Rafael R. and Carlos L. holding down Flores. Arcos observed at least one man on top of Flores' torso area with both arms being held. Flores was flailing his legs. Gentile also observed Flores flailing and kicking his legs while the men held him down. Both deputies noticed Flores was in his underwear, bleeding and had abrasions to his legs, buttocks and elbows.

¹ Chuck E. Cheese was near capacity when Flores ran into the restaurant. A number of patrons observed that Flores was bloody and partially undressed.

Gentile and Arcos each grabbed one of Flores' arms and handcuffed his hands behind his back.² Gentile placed her left knee on top of Flores as he continued to flail his legs. LASD Deputy Jason Aguilera arrived around this time. Aguilera saw Flores lying on his stomach with his arms handcuffed behind his back. Flores was kicking his legs backward with enough force to raise his knees off the ground while on his stomach. Aguilera crossed Flores' ankles and bent his heels toward his buttocks.³ Aguilera used his legs and body weight to hold Flores in that position for 20 to 30 seconds. Flores continued to kick his legs. LASD Deputy Scott Reynal observed Flores kicking his legs and advised Aguilera to use his hobble device.⁴ Aguilera placed the hobble around Flores' ankles then handed the slack to Reynal who held Flores in place.⁵

Deputies noticed blood dripping to the ground from Flores' face. The deputies turned Flores to his side. It appeared that he had stopped breathing. Arcos rubbed his knuckles along Flores' sternum and received no response. Gentile could not detect a pulse. The handcuffs and hobble restraint were removed from Flores and Gentile began cardiopulmonary resuscitation (CPR). Paramedics arrived and transported Flores to Coast Plaza Hospital.⁶ Flores was pronounced deceased at 7:41 p.m.

Autopsy Report

Odey C. Ukpo, M.D., Deputy Medical Examiner, performed an autopsy on Flores on February 7, 2017. Ukpo ascribed Flores' death to methamphetamine toxicity and determined that the manner of death was accidental. According to Ukpo, methamphetamine is a central nervous system stimulant with high potential for abuse. At any concentration, methamphetamine can cause an arrhythmia (lethal heart rhythm) and sudden death. Toxicology results performed on blood samples taken at the autopsy showed Flores had 1.6 ug/mL (micrograms per milliliter) of methamphetamine in his femoral blood and 3.1 ug/mL in his heart blood. The toxic range of methamphetamine in the blood is 0.6 ug/mL to 5.0 ug/mL.⁷

The autopsy revealed multiple abrasions to Flores' head, face, torso, buttocks and extremities. Flores had a compound fracture to his right clavicle and soft tissue hemorrhage to his back. Several of the abrasions were consistent with Flores jumping from a moving vehicle.

² Gentile stated that Flores stiffened his right arm when she tried to bring it behind him. Arcos said Flores was "slightly" resisting and noted his large size. Flores was 5'11" and weighed 282 pounds.

³ Aguilera observed a severe abrasion, similar to road burn, to Flores' buttocks. He also noted abrasions to his side and a severe abrasion to his arm.

⁴ A hobble device is a leg restraint used to restrict a combative person's leg movements. The restraint is looped around both ankles and pulled taut.

⁵ Rafael R. and Carlos L. observed Flores physically resist the deputies after they relinquished control to them. They stated that the deputies struggled to handcuff Flores who was constantly kicking his legs backward. Rafael R. and Carlos L. did not see the deputies use any force against Flores other than that necessary to handcuff him.

⁶ Sergeant Jason Cunningham video recorded the scene upon his arrival. At the beginning of the recording, Flores is lying on his stomach with his hands cuffed behind his back. Reynal is holding the slack to the hobble restraint which is wrapped around Flores' ankles. The handcuffs and hobble restraint are removed 16 seconds into the recording. CPR commenced at 47 seconds into the video. The paramedics arrived 93 seconds after Gentile began chest compressions.

⁷ Winek CL, Wahba WW, Winek CL, Jr, Balzer TW. "Drug and chemical blood-level data 2001" *Forensic Science International*, 2 March 2001, p. 115.

He sustained a broken rib consistent with the application of CPR. There was no evidence of injury to his neck, chest or abdominal cavity. Flores did not sustain a brain injury.

LEGAL ANALYSIS

A police officer may use reasonable force in making an arrest or in overcoming resistance to arrest. Penal Code §835a.

A peace officer may legally detain someone if: (1) the specific facts known to the officer lead him or her to suspect that the person to be detained has been, or is about to be, involved in activity relating to a crime, and (2) a reasonable officer who knew the same facts would have the same suspicion. See, CALCRIM No. 2670.

CONCLUSION

Based upon the evidence examined in this investigation, we conclude that the deputies used reasonable force while lawfully detaining Flores. The original “man down” call had been updated to a man running naked into Chuck E. Cheese. Upon arrival, the deputies observed Flores in his underwear, being held on the ground by two civilians outside the restaurant. It was reasonable for the deputies to suspect that Flores was the individual involved in the disorderly behavior.

There is no evidence that the deputies used anything other than reasonable force to detain Flores. Flores was already resisting Carlos L. and Rafael R. when deputies arrived to the scene. Gentile and Arcos handcuffed Flores after some minor resistance. Aguilera and Reynal then applied the hobble restraint to Flores’ ankles to restrict his kicking. Rafael R. and Carlos L. did not observe the deputies use any other force toward Flores.

Ultimately, the deputy medical examiner ascribed Flores’ death to methamphetamine toxicity, and ruled the manner of death accidental. Methamphetamine was detected in Flores’ blood. Flores’ erratic and violent behavior observed by witnesses as he tried to enter multiple occupied vehicles, attempting to forcibly remove one occupant, was consistent with an individual operating under the influence of a controlled substance.

Finally, the autopsy revealed multiple abrasions, a broken clavicle and soft tissue hemorrhaging to Flores’ back. The injuries were non-fatal. Witnesses observed Flores fall backward from the bed of the truck onto the street and roll several times. The blunt force physical injuries sustained by Flores appeared to be consistent with an individual falling from a moving vehicle. In addition, these injuries were observed by civilian witnesses and the deputies before any force was applied by the deputies.

We are closing our file and will take no further action in this matter.