

In-Custody Death of Cesar Rodriguez

Los Angeles Police Department

Officer Robert Melchior, #26980 and Officer Joseph Goosby, #35124

J.S.I.D. File #12-0005



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 1, 2018

MEMORANDUM

TO: COMMANDER ALAN HAMILTON
Force Investigation Division
Los Angeles Police Department
100 West First Street, Suite 431
Los Angeles, California 90012

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

SUBJECT: In-Custody Death of Cesar Rodriguez
J.S.I.D. File #12-0005
F.I.D. File #F119-11

DATE: October 1, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles Police Department (LAPD) Officers Robert Melchior and Joseph Goosby used non-lethal force that was potentially a contributing factor in the death of Cesar Rodriguez. We have concluded that the force used by Officers Melchior and Goosby was reasonable. We have further concluded that their use of force was not a proximate cause of Rodriguez' death and that Melchior and Goosby are thus not criminally liable for Rodriguez' death. For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports, transcripts, audio and video recordings, photographs, diagrams and the autopsy report, submitted to this office by LAPD Force Investigation Division Detective John Simmons. The compelled statements of all involved officers were considered in this analysis.

FACTUAL ANALYSIS

On Friday, December 30, 2011, at approximately 11:30 a.m., Eduardo N. was delivering food to Saint Peter's Italian Catholic Church, located at 1051 North Broadway Street in the City of Los Angeles. Eduardo parked his vehicle in the church parking lot and then observed a man, later identified as Cesar Rodriguez, standing on the roof of a one story building, threatening to jump and kill himself.¹ Rodriguez was speaking in Spanish, which Eduardo spoke and understood. Eduardo attempted to persuade Rodriguez to come down from the roof, but was unsuccessful. Eduardo went inside the church and

¹ Rodriguez was standing on the ledge of a parapet which was approximately three feet above the roofline and 14 feet, three inches from the ground. The parapet was 10 inches wide.

directed church employees to call 9-1-1 and report that Rodriguez was on the roof threatening to jump and commit suicide.²

The first officers arrived in response to the calls at 11:38 a.m. One of the officers, Antonio Gutierrez, attempted to start a conversation with Rodriguez in an effort to get him to come down from the roof. At that time, Rodriguez was standing on the parapet, screaming and yelling. Officers requested that the Los Angeles Fire Department (LAFD) respond to the location, and also requested an airbag from LAFD.³ Additional police units were also requested.

After approximately 10 minutes, additional units arrived as did LAFD. An inflatable airbag was placed at the base of the wall underneath where Rodriguez was standing. A small area along the eastern portion of the wall was not covered by the airbag, and a ladder was placed in that location to allow Rodriguez to come down from the roof if he wished.



Still photograph from video depicting the position of the airbag in relation to Rodriguez, as well as the small area not covered by the airbag where the ladder is located.

² The first call to 9-1-1 was received at 11:34 a.m. A second call from another employee was received moments later.

³ An airbag is a large inflatable cushion placed below an area where someone is threatening to jump and commit suicide in an effort to soften their fall and ensure that their injuries, should they jump or fall, are not life threatening.



Photograph depicting airbag placement.

Officers were deployed to the roof as well as an adjacent parking lot and additional officers were deployed to secure a perimeter around the location. Officer Jorge Morales-Requena took over negotiating with Rodriguez. Morales-Requena attempted to persuade Rodriguez to come down from the roof. Rodriguez refused, and made statements to Morales-Requena that there were people on the roof with him attempting to kill him.⁴ Morales-Requena continued to speak to Rodriguez for approximately one hour. At one point Rodriguez removed a knife from his pocket and began making slashing motions in the air. Rodriguez also began cutting his arms, holding the knife up to his own neck as if to slash it, and poking himself with the knife on his chest and abdomen. Rodriguez paced on the ledge of the roof, and at certain points made movements that caused Morales-Requena to fear he was about to jump. Rodriguez also threatened to jump if officers approached him.

⁴ Officers were deployed with various vantage points to see the entire roof area where Rodriguez was standing and pacing. There was no one else on the roof. Additionally, Rodriguez would point to where said people were at various times, and there was no one there.

Officer Eduardo Perez began speaking to Rodriguez from a position 37 feet away from Rodriguez on the roof. After attempting to communicate with Rodriguez for a period of time, Perez believed Rodriguez was exhibiting signs of paranoid schizophrenia.



Aerial photograph depicting area where Rodriguez was standing and pacing, as well as higher area of roof where officers and Doctor Hao were positioned.

At approximately 1:33 p.m., LAPD Behavioral Science Services Psychologist Judy Hao arrived at the location. She was escorted to the roof, out of Rodriguez' line of sight, and began advising Perez how to proceed in talking to Rodriguez. Several different avenues of questioning and conversation were attempted, but none were successful in getting Rodriguez to come down from the roof or to put down the knife. At approximately 3:05 p.m., Dr. Hao was escorted off the rooftop and began briefing command staff on what had transpired with Rodriguez and whether additional negotiations were likely to be successful given Rodriguez' mental state.

At this point, Rodriguez had been on the roof for approximately four hours. During that time, he had cut himself on his arms, abdominal area and neck. He refused food or water, and his stabbing and slashing gestures with the knife were becoming more animated. None of the officers who had attempted to speak with Rodriguez felt they had built a rapport with him and there were no indications that Rodriguez was willing to surrender or come down from the roof.

At approximately 3:15 p.m., Perez was replaced by Officer Louis Reyes, in hopes that a new negotiator might have a better rapport with Rodriguez. After approximately 15 minutes, it was decided that the situation had not improved with the introduction of a different negotiator. A briefing was held and all of the officers present indicated that they felt they were at an impasse with Rodriguez. Dr. Hao agreed with this assessment, and it was decided that a tactical plan was necessary to prevent Rodriguez from doing further harm to himself and to get him down from the roof.

A tactical plan was developed using less than lethal munitions. 40 millimeter direct impact sponge weapons were to be deployed to force Rodriguez off the ledge and onto the flat portion of the roof. After Rodriguez was forced off the ledge, a TASER Shockwave would be used to deliver a set of six TASER darts to Rodriguez, incapacitating him so that officers could safely take him into custody. Considered in the tactical plan was the placement of shooters and the direction of non-lethal fire, as well as Rodriguez' position at the time the tactical plan was launched. The intent of all officers was to push Rodriguez away from the ledge and onto the roof. The plan was to be implemented while Rodriguez was standing over the area covered by the airbag, with his back facing the airbag, to ensure that if he lost his footing and fell, he would land on the airbag and avoid serious injury.

Officers Melchior and Goosby were directed to fire less than lethal sponge rounds from positions in the south parking lot below Rodriguez, once they were given the command to do so. [REDACTED]

At approximately 3:25 p.m., a video recording of Rodriguez was started from the parking lot area. Rodriguez was recorded for approximately 30 minutes. During this time, Rodriguez remained on the ledge armed with a knife. Rodriguez continued to place the knife against his own throat. At one point, Rodriguez walked to the southeast corner of the roof where the ladder was placed, where he remained for approximately 20 minutes. During this period, Rodriguez looked down repeatedly and appeared to be aware of the exact area not covered by the airbag. At approximately 3:55 p.m., Rodriguez walked away from the southeast corner of the roof. Rodriguez stood on the parapet with his hands down to his side, the knife in his right hand. Rodriguez was facing north. At that time, the order to initiate the tactical plan was given. Both Melchior and Goosby fired one .40 millimeter direct impact sponge round at Rodriguez' back. Rodriguez was struck once in the buttocks, but remained on the ledge.

Rodriguez then walked quickly to the southeast corner of the roof, paused momentarily, then jumped off the roof head-first with his hands to his side onto the small area of cement not covered by the airbag. This action is captured on the video. Rodriguez landed 11 feet, eight inches from the east wall and died immediately. A black folding knife was found in his hand. Rodriguez was pronounced dead at 4:00 p.m. by LAFD paramedic Daniel Gutierrez.

Positional Diagram

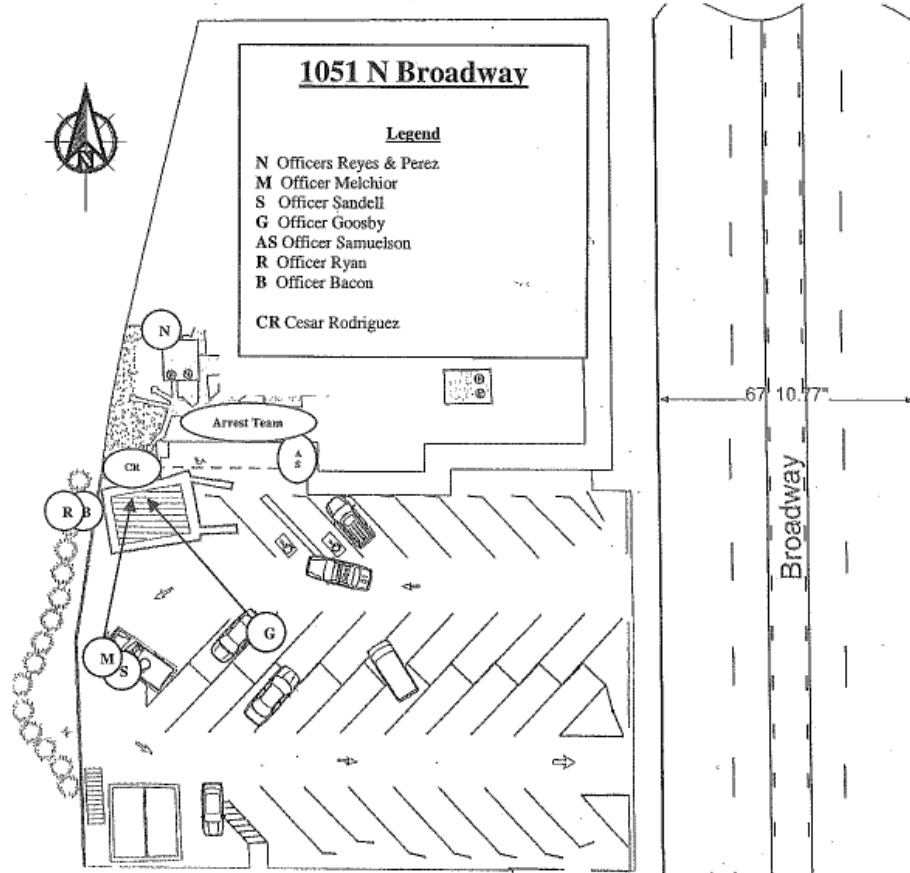


Diagram depicting the location of Melchior and Goosby when they fired non-lethal rounds at Rodriguez.

An autopsy was conducted on January 2, 2012, by Los Angeles County Coroner Deputy Medical Examiner Raffi Djabourian. Dr. Djabourian determined that the cause of death was blunt force trauma to the head and spine consistent with Rodriguez jumping off the roof. Noted during the autopsy were multiple non-fatal injuries consistent with Rodriguez poking and cutting himself with the knife. A large amount of methamphetamine was also found in Rodriguez' blood at the time of his death.⁵ The manner of death was deemed to be suicide.

LEGAL ANALYSIS

“An officer may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance.” *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1102. “Unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and

⁵ A total of .15 ug/ml of amphetamine and .63 ug/ml of methamphetamine were detected.

using force as part of their duties, because the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” *Id.* (citations and internal quotations omitted).

“The question is whether a peace officer’s actions were objectively reasonable based on the facts and circumstances confronting the peace officer.” *Id.*, at 1102.

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. 505, 3470.*

An act causes death if the death is the direct, natural and probable consequence of the act and the death would not have happened without the act. *CALCRIM No. 582*

In the instant case, Melchior and Goosby employed less-than-lethal force as part of a tactical plan designed to prevent Rodriguez from harming himself further with the knife, or by jumping or falling off of the roof ledge. All witnesses present during the hours long negotiation with Rodriguez concluded that further negotiation was not going to be effective. The video corroborates witness statements that Rodriguez appeared to be more agitated, putting the knife against his own throat and even inspecting the corner of the ledge without airbag coverage, placing himself at risk of an unprotected fall, and creating a reasonable fear that he would jump.

The officers’ shots were from a location and in a direction designed to move Rodriguez away from the ledge at a time when he was standing over an airbag. There is no evidence that the force from the shots in any way forced him into a position over the small area of concrete not covered by the airbag. To the contrary, the video shows him being struck by a sponge round, and it not causing any change in his position immediately. Instead, Rodriguez took a clear and deliberate step to end his own life by running to the one corner where there was no airbag and diving off, without even using his hands to brace his fall. Based upon the statements of witnesses and the video which captured the last half hour of negotiations and Rodriguez’ jump off the roof, it is clear that his death was a suicide and not caused by Melchior or Goosby’s use of force.

CONCLUSION

The evidence examined in this investigation shows that Officers Melchior and Goosby used reasonable force in their efforts to move Rodriguez off of the roof ledge and prevent him from harming himself further. The physical force used was not the cause of his death, so their actions do not warrant criminal liability. As such, we are closing our file and will take no further action in this matter.