

**Officer Involved Shooting of Robert Diaz**

**Los Angeles Police Department**

**Officer Miguel Ruano #39417**

**J.S.I.D. File #16-0245**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**January 27, 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:           Officer Involved Shooting of Robert Diaz  
J.S.I.D. File #16-0245  
L.A.P.D. File #F029-16

DATE:               January 27, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 13, 2016, fatal shooting of Robert Diaz by Los Angeles Police Department (LAPD) Officer Miguel Ruano. We have concluded Officer Ruano acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 9:25 p.m., on May 13, 2016. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, firearm analysis reports, crime scene diagrams and sketches, photographs, video evidence, autopsy report and witness statements submitted to this office by LAPD Detective Greg McKnight. Officer Ruano's compelled statement was considered as part of this analysis.

### **FACTUAL ANALYSIS**

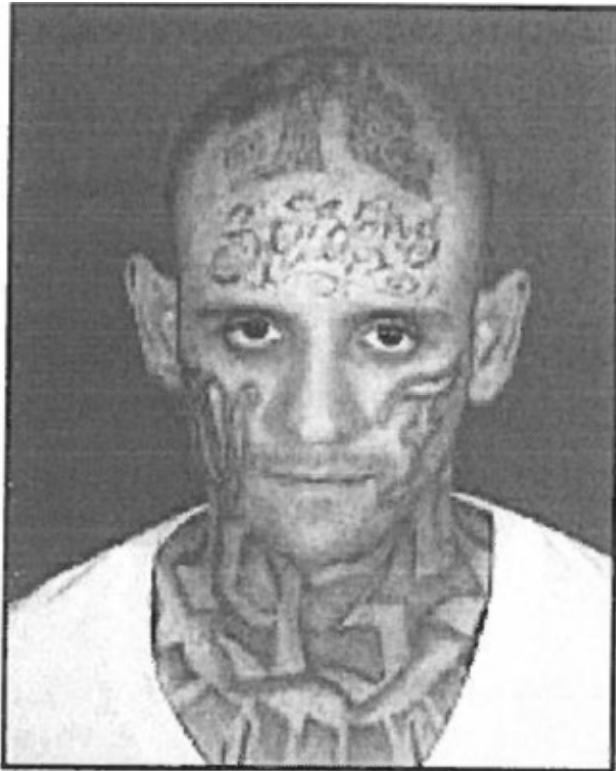
On Friday, May 13, 2016, uniformed LAPD Officers Miguel Ruano and Rigoberto Vasquez were working Hollenbeck Area Gang Enforcement Detail (GED). Ruano was driving a marked black and white police vehicle with Vasquez in the front passenger seat. The officers' assignment was to provide crime suppression in the area, which included White Fence gang territory. Both officers had been assigned to Hollenbeck area for over six years and worked in GED for approximately six months. They were each familiar with several members of the White Fence gang and the locations the gang members were known to frequent. Both officers were also aware of an increase in violent gang crime, including shootings and gang graffiti in the weeks prior to May 13, 2016.<sup>1</sup>

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<sup>1</sup> LAPD had deployed additional officers from Metropolitan Division to assist in Hollenbeck area due to the increase in gang activity. A mission sheet dated May 10, 2016, specifically referenced a feud between the White Fence gang

Ruano and Vasquez had received information from other GED officers that Robert Diaz, a known White Fence gang member, had recently been released from prison. Diaz was reported to have an extensive criminal history, was on probation and had an outstanding arrest warrant for failing to report to his probation officer. Ruano and Vasquez were also advised that Diaz had recently been arrested for possession of ammunition while attempting to flee into a known gang residence located on South Lorena Street. Ruano and Vasquez were familiar with this location because another known White Fence member, Raul A., was frequently seen at the location. Raul was known by the moniker “Yogi,” and was reported to be a “shot-caller” for the gang.<sup>2</sup> The officers were also aware that Raul drove a 1990s, primer-colored, four-door, Honda Accord, which he routinely parked in front of the gang residence on South Lorena Street.

Ruano and Vasquez were also shown a photograph of Diaz, who had numerous distinctive and visible tattoos covering his head, face and neck.<sup>3</sup>



Distinctive tattoos on Diaz’ face, head and neck.

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and another gang in Lincoln Heights known as Clover and the increase of gang activity that resulted from their dispute.

<sup>2</sup> “Shot-caller” is street vernacular for a person who directs other gang members to commit crimes to further a gang’s status and criminal enterprise.

<sup>3</sup> Ruano and Vasquez were shown Diaz’ photo by other GED members at some point between his arrest on April 16, 2016 for a probation violation and May 13, 2016.

At approximately 8:29 p.m., the officers were traveling southbound on Lorena Street approaching 7<sup>th</sup> Street when they observed a group of four to six men standing on the sidewalk next to a parked vehicle which appeared to be the Honda associated with Raul, along the fence line of Lorena Elementary School. Both officers immediately recognized Raul and Diaz as two of the men in the group.

Diaz looked in the officers' direction and appeared startled. He then grabbed his waistband with both hands and quickly walked eastward, away from the group of men. As Ruano and Vasquez prepared to follow Diaz on foot, Diaz began running while still holding his waistband. Diaz crossed the roadway and ran in a northeastern direction toward Lorena Street. Ruano stopped and parked their vehicle. Vasquez exited the vehicle and began chasing Diaz.<sup>4</sup>

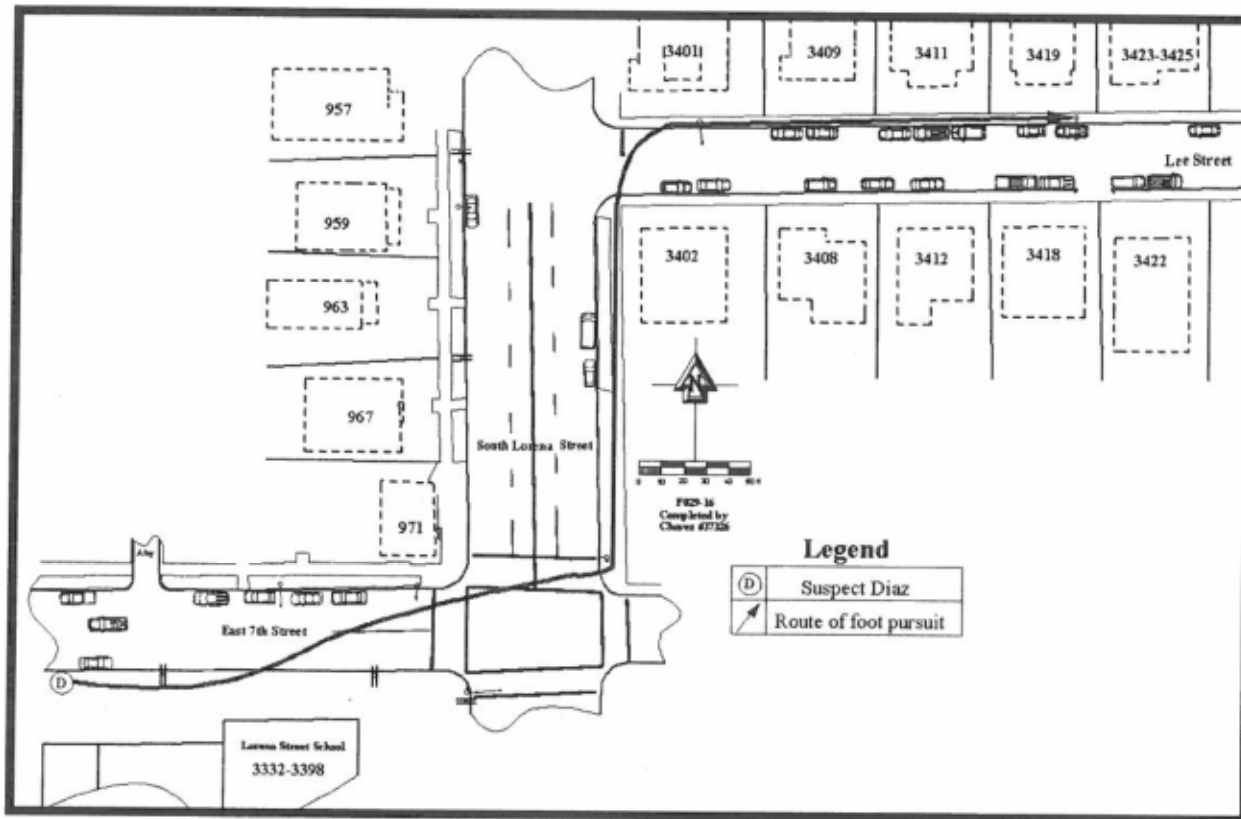
Diaz continued to run east on 7<sup>th</sup> Street, then north on the east sidewalk of Lorena Street. Diaz made a right turn, running east, onto the north sidewalk of Lee Street. Diaz was approximately 20 to 25 feet ahead of Vasquez as they ran.<sup>5</sup> [REDACTED]

[REDACTED]. The officers closed the distance to Diaz by a few feet as they chased him east on Lee Street. During the pursuit, Diaz did not say anything to the officers, but repeatedly looked back at them.

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<sup>4</sup> Vasquez activated his Body Worn Video (BWV) prior to engaging in a foot pursuit of Diaz.

<sup>5</sup> BWV captured the pursuit and shows the distance between the parties.



Route of foot pursuit of Diaz by Ruano and Vasquez

Diaz continued running eastbound, then turned his head to look back. As he did so, he collided with an overhead street pole, which caused him to hit a parked vehicle, setting off the vehicle’s security alarm. Vasquez was able to catch up to Diaz and observed that Diaz had nothing in his hands. Vasquez proceeded to grab Diaz, intending to take him into custody. As Vasquez did so, Diaz drew a handgun from his waistband using his left hand. Vasquez observed Diaz attempting to point the weapon at his chest and head area. Vasquez used his right hand to grab Diaz’ left hand and gain control of the gun. Vasquez and Diaz struggled over control of the gun while facing each other. As they struggled, Vasquez could see and feel Diaz moving his left arm and pushing the gun towards Vasquez’ chest and head. Vasquez attempted to push the gun away. Diaz fired two to three rounds, striking Vasquez in his upper right arm in the bicep area. The two continued to struggle for the gun, and Diaz fired additional rounds at Ruano, who was on the sidewalk running towards them.



[REDACTED]

Vasquez pushed Diaz against a parked vehicle, causing Diaz to fall onto his back with Vasquez landing on top of Diaz, offset to the right side of Diaz' upper body. Vasquez was facing Diaz and continued to try to gain control of Diaz' left hand to prevent Diaz from shooting him again.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Ruano moved closer to Diaz, dropped to his knees and straddled Diaz' right leg. [REDACTED]

[REDACTED]

[REDACTED] Ruano fired his service weapon until Diaz stopped moving and the gun was no longer pointed in he and Vasquez' direction.<sup>8</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Diaz appeared to be deceased, but still had the gun in his left hand with his finger on the trigger. Vasquez kicked the gun out of Diaz' hand, causing it to slide a few feet away under a parked vehicle.<sup>11</sup>

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<sup>6</sup> Ruano was later hospitalized and treated for injuries associated with this incident.

<sup>7</sup> Vasquez' BWV depicts the struggle between Vasquez and Diaz, as well as Ruano running towards them on the north sidewalk. Portions of the video are dark due to the movement of the camera in the struggle, but Diaz' gunshots can clearly be heard on the video.

<sup>8</sup> Ruano activated his BWV after firing his weapon, but the recording captured approximately 30 seconds prior to the activation. Ruano's BWV shows Ruano firing his service weapon, but does not depict anything prior to Ruano firing his weapon.

<sup>9</sup> Subsequent investigation determined that Ruano fired a total of six rounds from his service weapon.

<sup>10</sup> Stippling observed during the subsequent autopsy indicated that shots were fired from somewhere between six inches and three feet away.

<sup>11</sup> Subsequent investigation determined that Diaz fired a total of six rounds during the incident. Six casings were recovered at the location consistent with the caliber of Diaz' weapon. His weapon, a 9mm Parabellum caliber Sig Sauer Model SP2022 semiautomatic pistol, was found on its left side with a magazine inserted and the hammer cocked. One live cartridge was found in the chamber and two live rounds were found in the magazine.



Position of Diaz' firearm after Ruano kicked it from his left hand.

Diaz was pronounced dead by paramedics at the scene and a subsequent autopsy attributed the cause of death to multiple gunshot wounds to the head.<sup>12</sup>

One percipient civilian witness was located during a canvas of the neighborhood. His statement was consistent with those of the two officers as well as the BWV, although he did not observe all aspects of the officers' contact with Diaz.<sup>13</sup>

## LEGAL ANALYSIS

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 § 197; *People v. Randle* (2005) 35 Cal.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45

<sup>12</sup> Toxicology testing done as part of the autopsy revealed that Diaz had marijuana, methamphetamine and amphetamine in his system at the time of his death. Swabs taken from his right and left hand as well as of his face were positive for particles of gunshot residue, consistent with him having fired a weapon and Ruano having fired his weapon at close range.

<sup>13</sup> The only inconsistency was that the civilian witness believed Diaz had the gun in his right hand. BWV clearly shows the firearm in Diaz' left hand, consistent with [REDACTED] officers' statements.

Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 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 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 section 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.

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 section 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. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer 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 have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

In this matter, Ruano fired his service weapon only after Diaz had demonstrated that he posed a grave threat to both Ruano and Vasquez. Having already fired his weapon repeatedly, and having shot Vasquez in the arm, Diaz maintained control of his gun during a physical struggle with Vasquez. Despite Vasquez' attempt to push the gun away, when Ruano approached Diaz still had control of the weapon [REDACTED] Unable to fire his weapon from a distance without risking further injury to his partner, Ruano was forced to fire at close range. Ruano continued to fire until Diaz stopped moving and was no longer a threat. As such, his use of force was reasonable.

## **CONCLUSION**

We find that Officer Ruano acted lawfully in self-defense and in defense of others when he used deadly force against Robert Diaz. We are closing our file and will take no further action in this matter.