

**Officer Involved Shooting of Joseph Hernandez
Los Angeles Police Department**

**Officer Antonio Arevalo, #38878
Officer Christopher Corwin, #35724**

J.S.I.D. File #16-0575



JACKIE LACEY

District Attorney

Justice System Integrity Division

February 8, 2018

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
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 Joseph Hernandez
J.S.I.D. File #16-0575
F.I.D. File #F072-16

DATE: February 8, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 7, 2016, non-fatal shooting of Joseph Hernandez by Los Angeles Police Department (LAPD) Officers Antonio Arevalo and Christopher Corwin. It is our conclusion that Officers Arevalo and Corwin used reasonable force in self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on November 7, 2016, at approximately 7:10 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LAPD Lieutenant Steven Lurie.

The following analysis is based on reports, recorded interviews and photographs submitted to this office by the LAPD's Force Investigation Division. The departmentally compelled statements of Officers Arevalo and Corwin were not considered in this analysis.

FACTUAL ANALYSIS

On November 7, 2016, LAPD Officers Arevalo and Corwin were assigned to the LAPD Rampart Division Vice detail along with Officers Angela Trimino and Daniel Guido. The four officers were assigned to patrol the Westlake District of Los Angeles in an unmarked, four-door, Chevrolet Colorado pickup truck and were specifically monitoring Ocean Liquor Store, located on the northeast corner of Alvarado Street and Eighth Street, as part of a nuisance abatement investigation. The officers were not wearing uniforms, instead, they wore tactical vests emblazoned with LAPD markings over their street clothes.

At approximately 4:53 p.m., Corwin was photographing several individuals sleeping on the sidewalk of Eighth Street outside of Ocean Liquor Store from the front passenger seat of the truck. After Corwin took the photographs, Arevalo, who was driving the truck, pulled onto

Eighth Street headed west. As the truck entered the intersection of Eighth Street and Alvarado Street, Aldo Carrera was crossing Alvarado Street on foot. While he was crossing, Carrera stared at the officers in the unmarked pickup truck and started making gang signs in their direction with his hands. Trimino, who was seated in the rear seat of the truck behind the driver, saw Carrera gesturing and alerted the other officers to what she had seen. The officers briefly discussed Trimino's observations and decided to circle the block, locate Carrera, and watch to see what he was doing.

Arevalo drove around the block and was proceeding southbound on Alvarado Street when Trimino observed Carrera immediately next to their truck and said, "There he is; he's right there." Arevalo stopped the truck mid-block. As Arevalo stopped the truck, Corwin, Trimino, and Guido exited to contact Carrera, who was standing on the sidewalk to the passenger's side of the truck.

When Corwin exited the truck, he was about six feet from Carrera.¹ Corwin saw Carrera reaching for his waistband with his left hand while making gang signs with his right hand and yelling, "That's him!"² Corwin saw that Carrera was not armed and turned to his left to see at whom Carrera was yelling. When he did, Corwin saw Joseph Hernandez standing on the sidewalk immediately in front of the truck pointing a handgun at Arevalo, who was still seated in the driver's seat of the truck. Corwin started to draw his firearm when he heard a gunshot. He fired two times at Hernandez, who then ducked in front of the truck. Hernandez then stood and began running away from Corwin. While he was running away, Hernandez pointed his handgun in the officers' direction and Corwin fired one more round. After firing that round, Corwin saw Hernandez throw the gun on the sidewalk and continue running. Investigators confirmed that Corwin fired three rounds from his duty weapon.

As Trimino stepped out of the truck from the driver's side, she heard two gunshots. Unable to immediately determine who was shooting, Trimino looked toward Carrera, who was yelling, "Get them!" or "Take them out!" Carrera had his right hand at his waistband, but Trimino noted he was unarmed and still making gang signs in the officers' direction. Trimino heard a second volley of gunshots and turned her attention to Hernandez, who was standing immediately in front of the officers' truck, and whom she had not seen earlier. When she saw Hernandez, he was bending down at the waist, holding his right shoulder, and trying to put something into his waistband. She watched as he turned and ran southbound on Alvarado Street and threw a handgun onto the sidewalk.

Guido exited the truck from the passenger's side rear seat. He saw Carrera making gang signs and heard him yell, "Take him out! Take him out!" and then heard gunshots. He took cover behind the door, focused his attention on Carrera, and never saw Hernandez.

Arevalo's compelled statement to investigators was not reviewed and he did not testify about this incident. However, he did give a public safety statement immediately after the shooting and told

¹ While Corwin's statement to investigators was not reviewed, he testified at a preliminary hearing on March 20, 2017. That testimony forms the basis for the description of his observations.

² Corwin heard Carrera yelling, "That's him" or "That's them" but is uncertain about the precise words he used.

his supervisor that he fired one round toward the front of the truck while seated in the driver's seat. The physical evidence at the scene is consistent with his statement.

A loaded, Smith and Wesson, .22 caliber pistol was located on the ground where Trimino and Corwin saw Hernandez throw the gun.



Figure 1: Hernandez threw a pistol as he ran from the officers.

Hernandez was struck one time on his right elbow. He ran to a nearby laundromat where two people secreted him in a bathroom and padlocked the door from the outside. Officers ultimately located him with the assistance of a police dog and placed him under arrest.

Hernandez was interviewed while in the hospital after he was arrested. He told detectives that an occupant of the truck shot at him through an open window and then he ran. After further questioning, he admitted to being in possession of a pistol when the pickup truck pulled up next to Carrera. He told investigators that he removed the gun from his waistband when the truck stopped: "I checked it and tried to load it. I cocked it back and then I squeezed. It didn't do nothing...it got stuck" and then the officers fired at him.³ Hernandez admitted to being a "Crazy Riders" gang member.⁴

Carrera was arrested shortly after the incident. He claimed that the driver of the truck pointed a gun at him from within the truck as it came to a stop and he yelled, "They're going to shoot!" in response. Carrera told officers that he saw Hernandez point something at the truck but claimed he did not know exactly what happened because he was not wearing his glasses. Carrera admitted to being a "Wild Boys" gang member. He explained he was making gang signs toward

³ The pistol was loaded with seven live rounds. It was test fired and found to be operable; however, it is damaged in such a way that it did not cycle normally. It could not be determined whether Hernandez actually pulled the trigger and attempted to shoot at the officers.

⁴ Hernandez was convicted of attempted murder for his actions in case BA451649. He was sentenced to 11 years in state prison.

the officers' truck because he believed the officers were gang members and he wanted to get into a fight because he had gotten into an argument with the mother of his child.⁵

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. 3470; *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 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 a person uses force in lawful self-defense, he need not stop using force until the threat has ended. *See* Plumhoff v. Rickard (2014) 134 S.Ct. 2012, 2022.

In this case, Corwin and Arevalo were making contact with a suspected gang member when Hernandez drew a handgun from his waistband and pointed it at Arevalo. The officers' decisions to discharge their weapons at Hernandez were both reasonable and necessary to protect themselves, their fellow officers, and the public under the circumstances. Corwin's subsequent decision to shoot again as Hernandez was running away while pointing the weapon in the officers' direction was also reasonable, as Hernandez still posed a threat and Corwin ceased firing as soon as Hernandez discarded his firearm.

CONCLUSION

We conclude that Officers Antonio Arevalo and Christopher Corwin used lawful force in self-defense and in the defense of others when they shot Joseph Hernandez. We are closing our file and will take no further action in this matter.

⁵ Carrera was convicted of attempted murder for his actions in case BA451649. He was sentenced to 9 years in state prison.