

**Officer Involved Shooting of Joshua Villavicencio
Los Angeles Police Department**

Officer Bernard Leon, #41739

J.S.I.D. File #15-0659



**JACKIE LACEY
District Attorney**

Justice System Integrity Division

April 3, 2017

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 Joshua Villavicencio
 J.S.I.D. File #15-0659
 F.I.D. File #F095-15

DATE: April 3, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 14, 2015, non-fatal shooting of Joshua Villavicencio by off-duty Los Angeles Police Department (LAPD) Officer Bernard Leon. It is our conclusion that Officer Leon acted in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on December 14, 2015 at 3:56 a.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by Lieutenant Jeffrey Wenninger of the LAPD Force Investigation Division (FID). Officer Leon's compelled statement was considered in this analysis.

FACTUAL ANALYSIS

On December 14, 2015, at approximately 2:40 a.m., off-duty LAPD Officer Bernard Leon was at his residence in the City of Los Angeles. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Leon called 9-1-1 and reached a CHP dispatcher. He stated, "I'm an off-duty officer. I just had an officer involved shooting off duty...I got robbed at gunpoint." After being transferred to an LAPD dispatcher, Leon further stated that Villavicencio tried stealing his car and was unconscious, suffering from gunshot wounds to his chest. Leon could be heard on the 9-1-1 recording stating, "If you go for the gun, I will shoot you again."

Leon remained with Villavicencio until the responding officers arrived. Villavicencio was eventually transported to Huntington Memorial Hospital where he was treated for non-fatal gunshot wounds to his right armpit, right arm, right side of his neck, and left upper front and rear torso.

Villavicencio's firearm, a .40 caliber Smith and Wesson semiautomatic pistol, was recovered from the street at the location of the shooting.¹ Biological samples were obtained from the firearm for DNA analysis. DNA obtained from the magazine was found to be consistent with the DNA profile of Villavicencio. In addition, a .40 caliber expended cartridge case was recovered from the scene and ballistics testing determined that it was fired from Villavicencio's pistol.²

LEGAL ANALYSIS

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. If the person's beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505.

The evidence examined in this investigation shows that Villavicencio attempted to carjack Leon while Leon was standing at his vehicle outside his residence at 2:40 a.m. There were no other persons in the area at the time. Villavicencio was pointing a gun at Leon [REDACTED] causing Leon to reasonably believe that Villavicencio would shoot and kill him.

¹ Department of Justice records indicated that the firearm was reported stolen in February 2012.

² On December 16, 2015, the Los Angeles County District Attorney's Office, Crimes Against Peace Officers Section, charged Villavicencio with one count of Penal Code section 664/215, attempted carjacking, and one count of 29800(a)(1), possession of firearm by a felon, in case number BA442244. The matter is currently in the pre-trial stage of proceedings.

Leon reacted by retrieving his weapon and defending himself against this threat to his life by firing his weapon at Villavicencio.

CONCLUSION

Based on the foregoing, we conclude that Officer Bernard Leon was placed in reasonable fear of imminent danger of death or great bodily injury to himself. Officer Leon acted lawfully in self-defense when he used deadly force against Joshua Villavicencio. We are therefore closing our file and will take no further action in this matter.