

**Officer Involved Shooting of Martin Hurtado
Long Beach Police Department**

Officer Alexander Roberts, #10672

J.S.I.D. File #16-0112



JACKIE LACEY

District Attorney

Justice System Integrity Division

April 10, 2018

MEMORANDUM

TO: CHIEF ROBERT G. LUNA
Long Beach Police Department
400 West Broadway
Long Beach, California 90802

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

SUBJECT: Officer Involved Shooting of Martin Hurtado
J.S.I.D. File #16-0112
L.B.P.D. File #16-15734

DATE: April 10, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 10, 2016, fatal shooting of Martin Hurtado by Long Beach Police Department (LBPD) Officer Alexander Roberts. It is the conclusion of this office that Officer Roberts acted reasonably and lawfully in self-defense when he used deadly force against Martin Hurtado.

The District Attorney's Command Center was notified of the shooting on March 10, 2016, at approximately 8:00 p.m. The District Attorney Response Team responded and was given a walk-through of the scene.

The following analysis is based on investigative reports, witness statements, and photographic evidence submitted to this office on April 10, 2017, by LBPD Detective Shea Robertson. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On March 10, 2016, at approximately 6:20 p.m., Officers Alexander Roberts and Jonathan Hernandez were traveling in their marked patrol vehicle when they observed a Honda Accord stopped, facing eastbound on West 67th Way towards Long Beach Boulevard, with no front license plate. As the officers followed the vehicle, they also observed the Accord did not have a rear license plate. Suspecting the Accord to be stolen, the officers attempted to conduct a traffic stop.

Suddenly, the Accord came to a stop, and the passenger, later identified as Martin Hurtado, exited the vehicle and ran onto Long Beach Boulevard. Roberts exited the patrol vehicle, and chased Hurtado on foot. Meanwhile, Hernandez followed Hurtado and Roberts in the patrol vehicle.¹

After a short foot pursuit, Hurtado eventually ran into Eleanor Lane, an alley located west of Orcutt Avenue, and between East 68th Way and East 68th Street. Hernandez positioned the vehicle at the

¹ The Accord fled northbound on Long Beach Boulevard after the foot pursuit began, and was never located. The driver of the Accord was never identified.

mouth of the alley. With Roberts still chasing behind him, Hurtado ran towards the patrol vehicle before turning westbound in the alley.²

As Hurtado passed the patrol vehicle, Hernandez observed Hurtado holding a black revolver in his right hand. Hernandez yelled "Gun!" to alert Roberts that Hurtado was armed with a gun. Roberts continued chasing Hurtado into the alley. Hernandez exited the patrol vehicle and ran in the alley, following Roberts in pursuit of Hurtado. Hernandez drew his service weapon, and ordered Hurtado to stop running. Roberts also drew his service weapon and aimed it at Hurtado.

Believing that Hurtado was in the process of turning to shoot in their direction, Roberts fired three rounds at Hurtado.³

Hurtado immediately fell stomach-down onto the ground, dropping the black revolver. Hurtado was then rolled over onto his back, checked for weapons, and handcuffed.

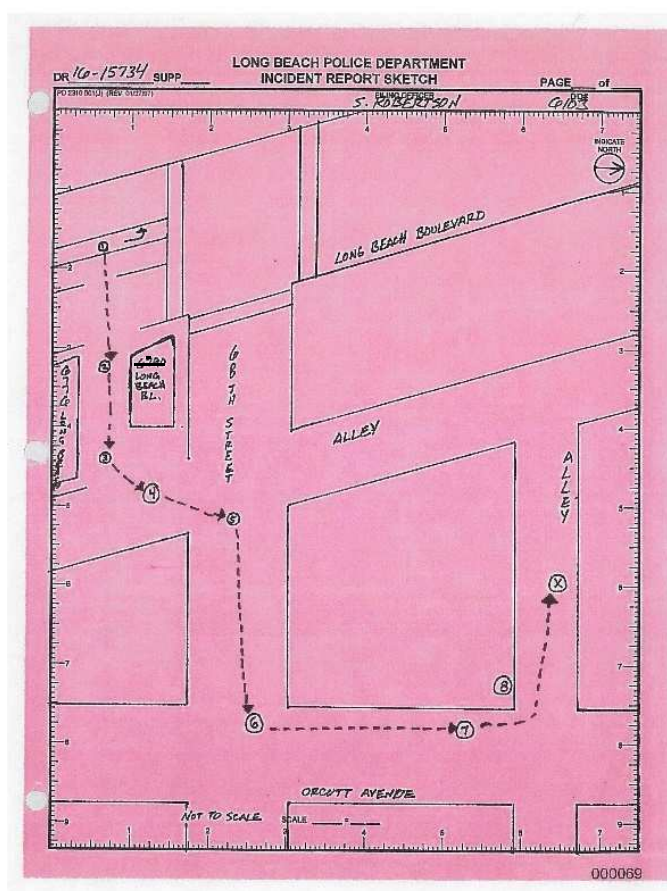


Diagram of Foot Pursuit Path

Paramedics arrived shortly thereafter and transported Hurtado to Long Beach Memorial Hospital, where he was subsequently pronounced dead.

² The relatively short pursuit covered 561 feet. It began at Long Beach Boulevard, south of 68th Street, and terminated at the alley (Eleanor Lane).

³ Hernandez's and Roberts' observations are detailed in their statements, which follow on pages 4 through 10 of this memorandum. Roberts was armed with a Springfield Armory, .45 caliber semiautomatic handgun. A subsequent examination of Roberts' service weapon revealed one live round in the chamber and seven live rounds in the 10 round magazine.

Associate Deputy Medical Examiner Matthew J. Miller and Senior Deputy Medical Examiner Raffi S. Djabourian performed an autopsy of Hurtado's remains. Hurtado sustained a single, fatal gunshot wound to the back, which exited through his chest. The gunshot wound direction was back to front, upward, and slightly right to left. The gunshot wound caused major damage to the internal organs, which resulted in massive internal hemorrhage and a fairly rapid death.

The toxicological examination showed alcohol and marijuana were present in Hurtado's body.⁴

Statement of Victoria R.

Victoria R. and Hurtado had been dating for approximately three and a half years, had one child together, and had resided together for six months prior to the incident at a residence located on 67th Street in Long Beach. Approximately five minutes prior to the shooting, Hurtado and his friend, "Jesse," were drinking beer at Hurtado's residence when they decided to buy marijuana at a marijuana dispensary located on Greenleaf Boulevard.⁵ Victoria R. asked Hurtado not to leave, but he did anyway.

Shortly after Hurtado and Jesse left, Victoria R. heard approximately three shots. Soon thereafter, Jesse called and told her that the police tried to pull him over, but Hurtado ran from the vehicle. Jesse stated he believed the police had shot Hurtado.

Victoria R. denied Hurtado ever carried any type of weapon, and stated she never saw him with a gun. Victoria R. believed Hurtado ran from the police because he knew he had a probation violation.⁶ They had been planning to go to Big Bear the next day, and she believed Hurtado did not want to go to jail and miss the trip.

Statement of Gabriel G.

Gabriel G. was standing with his friends, Berenice V. and Jose B., on Orcutt Avenue, just north of the mouth of the alley, when he observed Hurtado, wearing a hat and dark clothing, run around the corner at 68th Street and Orcutt Avenue towards them. A police vehicle came around the corner and cut off Hurtado, forcing Hurtado to run into the alley. Hurtado had a black gun in his left hand. As Gabriel G. turned and ran northbound towards 68th Way with his friends, he heard three gunshots.

Statement of Berenice V.

Berenice V. was hugging her boyfriend, Jose B., in front of her grandmother's house, near the mouth of the alley when she heard her friend, Gabriel G., yell "Oh, shoot!" Berenice V. heard Gabriel G. say, "He's got a gun!" as she and Jose B. ran away northbound. Berenice V. heard the police siren and saw the police lights behind her as she was running, but did not see the subject who was being pursued. Berenice V. heard approximately three shots as they were running away.

⁴ The toxicology result for ethanol (alcohol) was 0.03 g%, and the toxicology result for marijuana was 8.9 ng/mL.

⁵ Victoria R. stated she did not know Jesse's last name. She stated she knew very little about Jesse, other than he was in his mid-30's, had prison tattoos, and drove a four-door white vehicle.

⁶ Hurtado's rap sheet indicates he was on summary probation for a Vehicle Code section 23103 misdemeanor conviction from 2014 at the time of the incident.

Statement of Jose B.

Jose B. was with his girlfriend, Berenice V., and his friend, Gabriel G., when he saw Hurtado run from the police. Jose B. saw the lights of the police vehicle right behind Hurtado. Hurtado ran northbound on Orcutt Avenue, towards them, as he held his front waistband. The police vehicle drove past Hurtado and into the mouth of the alley, to cut Hurtado off. This forced Hurtado down the alley, and out of Jose B.'s sight. Jose B. was afraid, grabbed Berenice V., and fled northbound.

Jose B. heard the police yell, "Stop!" or "Freeze!" then heard several gunshots. Jose B. left with Berenice V. to check on Berenice V.'s grandmother, but returned with his friends to 30 East 68th Way. He looked into the alley, and heard Hurtado say, "You shot me."

Statement of Akan U.

Akan U.'s residence backs up directly to the alley. Akan U.'s front door faces south onto 68th Street, and was half open, with the screen door closed, when the shooting occurred. Akan U. heard a car engine revving from the area of 68th Street, west of his residence. He looked out his front door, and caught a glimpse of Hurtado as he ran in an eastbound direction on 68th Street towards Orcutt Avenue. A police vehicle, with its lights on, then passed eastbound in front of his house in apparent pursuit of Hurtado.

Akan U. lost sight of Hurtado and the police vehicle, but then saw the police vehicle turn northbound on Orcutt Avenue. Akan U. immediately heard someone yell, "Get down!" and "Put the gun down!" which was followed by three to five gunshots.

Statement of Officer Jonathan Hernandez

Hernandez and Roberts were in their patrol vehicle, traveling northbound on Long Beach Boulevard, when Hernandez observed a beige/brown Honda Accord at a complete stop, facing eastbound on West 67th Street towards Long Beach Boulevard. The Accord did not have a front license plate, in violation of Vehicle Code section 5200(a). The Accord was positioned so as to make a left turn onto northbound Long Beach Boulevard. Hernandez drove past the Accord and slowed down, as he intended to conduct a traffic stop of the vehicle once it entered Long Beach Boulevard.

When the Accord drove forward onto east 67th Way through Long Beach Boulevard, Hernandez deduced that the Accord was possibly trying to elude them. Hernandez drove northbound on Long Beach Boulevard, and turned right onto East 68th Way in an attempt to locate the vehicle. Hernandez and Roberts then traveled southbound in the alley east of Long Beach Boulevard. Upon turning right on East 67th Way, Hernandez observed the Accord was now traveling in front of them.

Hernandez and Roberts followed the Accord into the alley. When the Accord came to a complete stop, as it was about to make a right hand turn onto Long Beach Boulevard, Hernandez observed the Accord did not have a rear license plate. The Accord turned right, into the number one lane of Long Beach Boulevard, followed by another vehicle which was directly behind it. Hernandez and Roberts made a right turn and followed the Accord on Long Beach Boulevard, but were unable to conduct a traffic stop on the vehicle at that time due to the other vehicle being between them.

The Accord continued northbound on Long Beach Boulevard, and passed East 67th Way, before it suddenly veered into the left turn bay and abruptly came to a complete stop. Hernandez positioned the patrol vehicle directly behind the Accord, and activated the overheard lights and sirens in order to conduct a traffic stop of the vehicle.

Suddenly, the front passenger door of the Accord opened, and a man, later identified as Martin Hurtado, exited the vehicle, looked directly at the patrol vehicle, and immediately ran eastbound across Long Beach Boulevard towards a parking lot.



Hurtado Running Towards the Parking Lot

Roberts ordered Hurtado to stop, exited the patrol vehicle, and immediately chased Hurtado on foot into the parking lot.



Roberts Pursuing Hurtado into the Parking Lot

Hernandez cut through traffic eastbound across Long Beach Boulevard, and followed after Hurtado and Roberts into the parking lot.



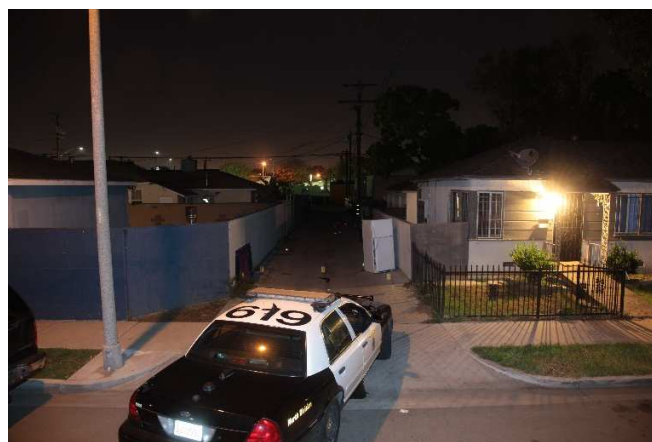
Hernandez Followed Roberts and Hurtado in the Patrol Vehicle



Hurtado Passed an Oncoming Vehicle as he Ran Through the Parking Lot

Hurtado turned right and continued to flee eastbound on East 68th Street, as Roberts chased after him. As Hernandez drove eastbound on East 68th Street, past Roberts, he observed Hurtado still fleeing as he ran northbound through the northwest corner of East 68th Street and Orcutt Avenue, before continuing northbound on Orcutt Avenue.

Hernandez turned left on Orcutt Avenue, and passed Hurtado on Orcutt Avenue. Hurtado looked directly at Hernandez, as Hernandez ordered him to stop running. Hernandez stopped the patrol vehicle at the entrance of Eleanor Lane.



Hernandez's Patrol Vehicle at the Mouth of the Alley

Hurtado ran directly towards the patrol vehicle and turned westbound in the alley, with Roberts after him. When Hurtado ran approximately ten feet past the patrol vehicle, Hernandez observed a black revolver in Hurtado's right hand. Hernandez yelled "Gun!" two or three times to alert Roberts that Hurtado was armed with a gun.

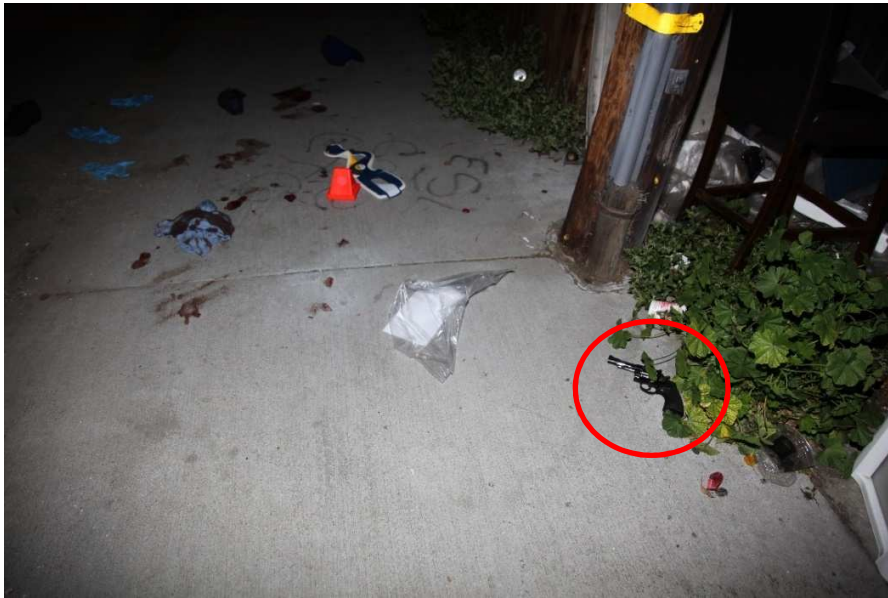
Hernandez exited the patrol vehicle, and ran into the alley, following Roberts in pursuit of Hurtado. Hernandez drew his service weapon, while Roberts was approximately 15 feet in front of him, with his service weapon also aimed at Hurtado. Hernandez stood northeast of Roberts, as he ordered Hurtado to stop running.

When Hurtado was approximately 25 feet from them in the middle of the alley, Hernandez stated he observed the following: "The suspect suddenly turned his body towards us and I observed the black revolver handgun in his right hand with the barrel pointed at us. The suspect was holding the gun just above his waist area, close to his body. The suspect's actions made him an immediate threat to my partner's life and my life. As I was setting myself up to fire my duty weapon at the suspect, I heard my partner shoot three consecutive rounds."

Hurtado immediately fell to the ground, dropping the revolver on the ground.



Location Where Hurtado was Shot, Revolver on Ground, and Patrol Vehicle at Mouth of Alley



Black Revolver on Ground

Hurtado landed on his stomach and began yelling. Although Hurtado's right hand was now empty, his left hand was under his torso. Hernandez ordered Hurtado to show his hands. When Hurtado finally pulled his left hand out from under him, Hernandez observed a pool of blood under Hurtado's torso.

Hurtado rolled over onto his back, removed his shirt, and sat up, turning his torso away from Hernandez and Roberts. Hernandez kicked the revolver away from Hurtado, and Hernandez and Roberts then approached Hurtado and handcuffed him. Hurtado was handcuffed with his hands in front of him to facilitate his breathing, as the officers waited for the fire department to respond to the scene.

Statement of Officer Alexander Roberts

While driving northbound on Long Beach Boulevard, Hernandez informed Roberts that there was a vehicle just south of them, that made an abrupt right hand turn as soon as the driver noticed their patrol vehicle. Hernandez informed Roberts that the vehicle, an older Honda, Toyota Camry or Corolla, did not have a front license plate.⁷ Based on his training and experience, Roberts recognized the make of the vehicle to be a commonly stolen vehicle.

Hernandez briefly followed the suspect vehicle. The vehicle eventually stopped at a stop sign, waiting to travel westbound 67th Way onto northbound Long Beach Boulevard. There was one vehicle separating the patrol vehicle from the suspect vehicle. At this time, Roberts observed that the suspect vehicle did not have a rear license plate, or dealership paper plates, further heightening Roberts' suspicion that the vehicle may be stolen.

The suspect vehicle appeared to have two occupants. The suspect vehicle and the vehicle behind it made a right hand turn onto northbound Long Beach Boulevard, and Roberts and Hernandez

⁷ Roberts was looking at their patrol vehicle's computer screen, and did not see the suspect vehicle at the time Hernandez made these observations.

followed. The suspect vehicle then began to slow down, and move into the left hand turn bay, as if it were going to make a left turn onto westbound 68th Street. However, the vehicle suddenly came to a complete stop, just south of the left turn bay. Hernandez activated the forward facing red light and siren of the patrol vehicle, at which point the front passenger side door of the vehicle opened.

A man, later identified as Martin Hurtado, exited the front passenger door and ran across the two northbound lanes of Long Beach Boulevard. Roberts ordered Hurtado to stop, but Hurtado continued running eastbound through the parking lot of a nearby market. Roberts exited the patrol vehicle, and pursued Hurtado on foot.

Hurtado ran through the south parking lot of the market, before he turned northbound in the alley, just east of Long Beach Boulevard and south of 68th Street. Roberts continued to follow Hurtado, and was approximately 25 feet behind him as Hurtado continued into the alley. Hurtado then exited the alley, and ran eastbound along 68th Street. Hurtado ran across 68th Street, and eastbound towards Orcutt Avenue. At this point, Roberts heard the engine of the patrol vehicle, and realized Hernandez was following eastbound on 68th Street, behind him. As they ran, Roberts ordered Hurtado to stop several times, but Hurtado refused.

Hurtado ran northbound on Orcutt Avenue, as Roberts continued approximately 20 feet behind him. Meanwhile, Hernandez, traveling in the patrol vehicle, was able to get ahead of Hurtado and Roberts, and passed Roberts as he drove northbound on Orcutt Avenue. Hernandez, who was now ahead in the patrol vehicle, made a left hand turn blocking the west sidewalk of Orcutt Avenue at the Eleanor Lane alley. Hernandez parked the patrol vehicle at the mouth of the alley. Roberts followed Hurtado northbound on Orcutt Avenue, as Hurtado approached the Eleanor Lane alley. Hurtado slowed down, to avoid running into the patrol vehicle, at which point Roberts closed the distance from him to approximately 12 feet. As Hurtado began to slow down, Hurtado turned and looked over his shoulder directly at Roberts. Roberts ordered Hurtado to stop, but Hurtado refused to comply.

As Hurtado continued northbound towards Eleanor Lane, he turned his left shoulder towards Roberts, exposing his chest and right hand. Hernandez, who was opening the patrol vehicle's door and was standing within a few feet of Hurtado, yelled, "He has a gun!" Roberts immediately observed Hurtado holding a silver or chrome revolver, or small semiautomatic handgun, with his right hand near his right front waistband area.

Hurtado ran westbound on Eleanor Lane, between the hood of the patrol vehicle and the wall along the west and north side of [REDACTED] East 68th Street. Roberts followed Hurtado, and drew his service weapon. Roberts aimed his service weapon at Hurtado, and ordered him to stop. However, Hurtado continued to run westbound on Eleanor Lane. At this point, Roberts heard Hernandez order Hurtado to drop the gun, but Hurtado refused to do so.

As Hurtado ran, the gun was now in his right hand, and not in his waistband, leading Roberts to believe that Hurtado was preparing to use it. Roberts believed that Hurtado was attempting to gain an advantageous position of cover, so that he could stop, turn, and shoot Hernandez or him. Roberts continued down the alley approximately 40 to 50 feet, with his service weapon aimed at Hurtado. As Roberts continued westbound down the alley, he activated the light mounted on his service weapon and ordered Hurtado to stop. Roberts stated he then observed the following: "I observed the subject begin to turn to look over his left shoulder once again. I observed the subject look directly at me, slow down his pace of travel, and I saw his right arm cross in front of his chest as he

moved his left shoulder towards my partner and I. I believed the subject was attempting to move the firearm in his right hand across the front of his body so that he could shoot over his left shoulder where my partner and I were standing.”

Hurtado’s actions caused Roberts to fear for his and Hernandez’s safety. Roberts stated, “At this point, I believed the subject’s actions to be an immediate threat to my life, and the life of my partner. I believed that if I did not stop the subject, he was going to use his firearm to shoot and to kill my partner or myself.” Roberts stopped running, and fired two rounds at Hurtado.⁸ Roberts added, “I noticed that the subject continued moving forward while he looked back at me, and I discharged my firearm one more time.”

Hurtado stumbled forward approximately ten feet, and fell to the ground onto his stomach, with the gun landing a few feet from his outstretched right arm. Hurtado began rolling around on the ground stating he was in pain, and removed his shirt. Roberts and Hernandez approached once Hurtado was on his back. Hernandez then used his foot to move the gun away from Hurtado.

Roberts and Hernandez checked Hurtado for additional weapons, found none, and handcuffed him in front of his waist to allow for medical aid. Roberts retrieved his pocket knife, cut off Hurtado’s white tank top, and used it to apply pressure to two chest wounds. As Roberts applied pressure on his wounds, Hurtado stated, “You got me. You got me.” Hurtado added, “I am sorry for running. I am sorry.”

Physical Evidence

The shooting occurred on Eleanor Lane, an east/west alley between 68th Street and 68th Way. Eleanor Lane is located just north of 68th Street, and runs west from Orcutt Avenue.

At the scene, Roberts’ and Hernandez’s police patrol vehicle was parked facing westbound in the entrance of Eleanor Lane. Eleanor Lane was dimly lit, with only one motion detector light from the detached garage of [REDACTED] East 68th Street. Investigators obtained surveillance video from two nearby businesses that captured portions of the short foot pursuit.⁹

The videos show Hurtado being pursued by Roberts on foot and Hernandez in the patrol vehicle. The patrol vehicle’s lights are shown activated and flashing.¹⁰

On Eleanor Lane, near where Hurtado received medical attention, there was a blue shirt, white shirt, blue hat, two blue shoes, a clear water bottle, and a black revolver. The revolver was a Smith & Wesson, .38 caliber revolver. A subsequent examination by criminalist Alexandra LaMay showed it was operational, and loaded with five cartridges in the cylinder.

⁸ Roberts estimated he was near the south side of the alley, and Hurtado was approximately twenty to thirty feet from him in a northwest direction when he fired.

⁹ Video surveillance footage was obtained from “Peluqueria 7 Machos” located at [REDACTED] Long Beach Boulevard, and “El Nuevo Guadalajara Meat Market” located at [REDACTED] Long Beach Boulevard.

¹⁰ The black and white photographs on page 5 and 6 of this memorandum are still images taken from the two videos. The video surveillance footage did not contain audio.



The Revolver Loaded with Five Cartridges in the Cylinder

According to Detective Todd Johnson, the original request for forensic examination of the revolver inadvertently neither included a request for DNA analysis nor a request to process it for latent prints. In preparation for the test fire examination, and prior to DNA analysis, LaMay handled the revolver, without gloves, when removing five cartridges from the revolver's chamber. Thereafter, Johnson requested the collection of DNA swabs from the revolver for analysis.

Following Johnson's request, DNA samples and profiles were obtained from the revolver and from the five cartridges recovered from the revolver.¹¹ A DNA reference sample was collected from Hurtado as part of the autopsy examination. A DNA reference sample was also collected from LaMay, who handled and unloaded the revolver, without gloves, prior to it being test fired, and subsequently examined for DNA evidence. A DNA profile was obtained from swabs collected from the revolver. This profile matched the DNA profile of LaMay. A DNA profile was also obtained from the samples collected from the cartridges. This profile was a mixture and was consistent with at least three contributors. The profile of the major contributor was consistent with the DNA profile of LaMay. However, no conclusions were made regarding the minor component due to its complexity. The property report indicates evidence technician B. Weber booked the revolver into evidence, and following Johnson's DNA analysis request, criminalist J. Johnson swabbed the revolver and collected a reference sample from LaMay. Reference samples were not obtained from Weber or J. Johnson for comparison purposes. Therefore, it is possible that the minor component may, or may not have been, other LBPd employees who handled the revolver. However, Hurtado was excluded as the source of the profile for the revolver, and as a major contributor to the mixture for the cartridges.

Three spent .45 cartridge casings and a baton were recovered from Eleanor Lane, closest to Orcutt Avenue.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he 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.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; see also, CALCRIM No. 505.

¹¹ The swabs collected from the revolver were from the grip, trigger, hammer, and cylinder release button.

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.*

"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 determining the reasonableness of an officer's actions, allowances must be made for the fact that police officers are often forced to make split-second judgments, in circumstances that are tense, uncertain and rapidly evolving, about the amount of force that is necessary in a particular situation. *Graham v. Connor* (1989) 490 U.S. 386, 396-398.

CONCLUSION

The evidence examined in this investigation shows that on March 10, 2016, Hurtado was the passenger in a suspicious vehicle which was exhibiting no front and rear license plates, in violation of Vehicle Code section 5200(a). Roberts and Hernandez, while on patrol, subsequently attempted to conduct a lawful traffic stop for the observed Vehicle Code violation. The suspicious vehicle then purposefully evaded the officers, before abruptly coming to a stop on Long Beach Boulevard. Hurtado then exited the front passenger door, and ran.

Roberts and Hernandez repeatedly ordered Hurtado to stop, but Hurtado ignored the officers' commands. As the officers pursued Hurtado on Eleanor Lane, the officers observed that Hurtado was armed with a handgun. Despite the officers' repeated commands to stop, Hurtado refused to surrender and discard the weapon. That the officers' commands were unheeded by Hurtado prior to their use of deadly force is corroborated by Jose B. who heard the officers yell, "Stop!" or "Freeze!" prior to hearing gunshots. Akan U. also heard the officers yell, "Get down!" and "Put the gun down!" before hearing the gunshots.

Hernandez described Hurtado turning and aiming the revolver at him and Roberts. Hernandez stated, "The suspect suddenly turned his body towards us and I observed the black revolver handgun in his right hand with the barrel pointed at us." From his angle, Roberts described a similar observation of Hurtado. Roberts stated, "I observed the subject begin to turn to look over his left shoulder once again... I saw his right arm cross in front of his chest as he moved his left shoulder towards my partner and I." Hurtado's actions placed both officers in immediate fear for their lives. In self-defense and in defense of Hernandez, Roberts fired his weapon at Hurtado.

Although, the LBPD failed to adequately preserve the revolver for DNA analysis, Hurtado's possession of the gun was nonetheless corroborated by an eyewitness' account, that of Gabriel G. Gabriel G. stated he observed Hurtado run into the alley holding a black gun in his left hand. While Gabriel G. observed Hurtado holding the gun in his left hand, and the officers observed Hurtado holding the gun in his right hand, this discrepancy is minor given the fact that all three put Hurtado in possession of the gun. It is not unreasonable that Hurtado may have transferred the gun between his hands, and this may account for the officers' and Gabriel G.'s differing observations.

Further, Hurtado's gunshot wound entry on his left back is not inconsistent with the officers' accounts and observations. It is entirely possible, and reasonable, that Hurtado had not completely turned, such that he would be facing the officers, at the time he was shot. Hernandez described a sudden movement, while Roberts described Hurtado moving his left shoulder in their direction. Therefore, it is likely that Hurtado had not completely turned his body towards the officers at the time he was shot, hence, the reason for the gunshot wound entry on his left back.

Based on the foregoing, we conclude that Officer Alexander Roberts acted reasonably and lawfully in self-defense, and in defense of others, when he used deadly force against Martin Hurtado. We are therefore closing our file and will take no further action in this matter.