

**Officer Involved Shooting of Vicente Gonzalez
Huntington Park Police Department**

Officer Gene Farmer, #5649

J.S.I.D. File #16-0446



JACKIE LACEY

District Attorney

Justice System Integrity Division

April 1, 2019

MEMORANDUM

TO: CHIEF COSME LOZANO
Huntington Park Police Department
6542 Miles Avenue
Huntington Park, California 90255

CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Vicente Gonzalez
J.S.I.D. File #16-0446
L.A.S.D. File #016-00097-3199-013

DATE: April 1, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 1, 2016, fatal shooting of Vicente Gonzalez by Huntington Park Police Department (HPPD) Officer Gene Farmer. It is our conclusion that Officer Farmer acted in lawful self-defense and in lawful defense of another.

The District Attorney's Command Center was notified of the shooting on September 1, 2016, at approximately 3:32 p.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on police reports, witness statements, video recordings and photographs submitted by the Los Angeles County Sheriff's Department (LASD) Detective Division, Homicide Bureau, which was tasked with investigating the case.

FACTUAL ANALYSIS

Introduction

On September 1, 2016, at approximately 1:46 p.m., Jose L., an employee from the Huntington Park Public Works Department (HPPWD), contacted a dispatcher at the Huntington Park Police

Department (HPPD) to request assistance.¹ Jose L. reported that as he and other employees from the HPPWD were attempting to clear a homeless encampment adjacent to the railroad tracks between 56th Street and 57th Street, they were impeded by a transient later identified as Vicente Gonzalez.²

At approximately 1:52 p.m., HPPD Motorcycle Officer Marco Mendoza arrived at the location in response to Jose L.'s request for assistance. Mendoza walked north up the train tracks towards 56th Street to the location of Gonzalez's encampment. Gonzalez, who was initially holding a pair of scissors in one hand and a rock in the other, came out of the encampment and spoke briefly to Mendoza, who informed him that he would have to leave the area. Gonzalez became agitated, swore at Mendoza and refused to leave.

Officer Farmer arrived at the location shortly after Mendoza and observed him speaking to Gonzalez next to the encampment. Mendoza was approximately five feet to ten feet away from Gonzalez; Farmer stood south of their location and could see that Gonzalez was upset.

At different times during his contact with Mendoza, Gonzalez picked up various weapons, including a pipe and rocks. Initially, Gonzalez complied with Mendoza's and Farmer's orders to drop these items.

However, shortly thereafter Gonzalez picked up one or two large rocks. When Gonzalez refused to drop the rock(s), Mendoza tased Gonzalez.³ Though he had been tased, Gonzalez quickly regained his ability to move and picked up a large rock. Gonzalez threw the rock at Mendoza and it forcefully struck him on the side of the chest. Gonzalez then threw another large rock at Farmer, which struck him on the leg. Almost simultaneously, Farmer shot at Gonzalez two times. Gonzalez was struck by one bullet, which caused him to collapse.

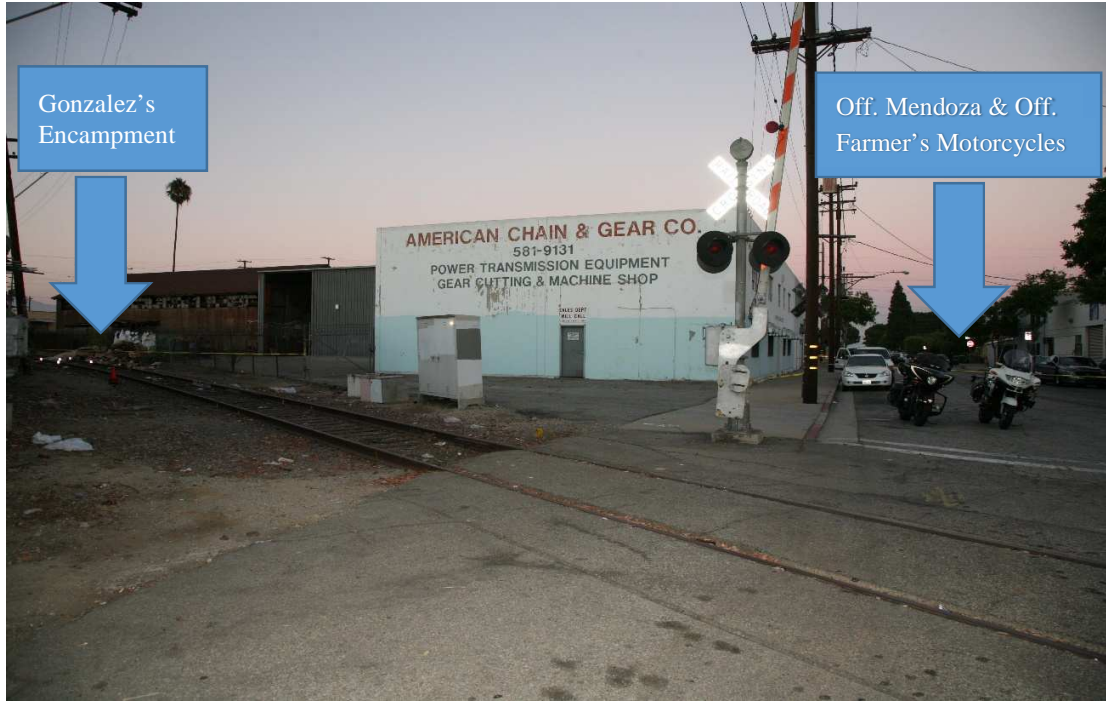
Officers Anthony Rendon and Lieutenant Patrick Kraut arrived at the location, moved Gonzalez away from the encampment, which had not been secured, and began to render medical aid to him. Paramedics arrived shortly thereafter and transported Gonzalez to LAC USC Medical Center. Gonzalez succumbed to his wound and was pronounced dead at the hospital.

LASD and HPPD investigators were unable to locate any video surveillance of the officer involved shooting from any of the nearby businesses.

¹ Jose L. also goes by the name of Mario and is identified by either name in investigative reports pertaining to this case.

² The location of the officer involved shooting was the portion of the railroad tracks bounded to the north by 56th Street and to the south by 57th Street. The tracks run north and south. Immediately to the east of these tracks lie several commercial buildings, including American Chain and Gear Company at 2451 E. 57th Street, which span the entire block from 56th Street to 57th Street. To the west of the tracks are also several commercial buildings. Gonzalez's encampment, which consisted primarily of piled cardboard, was located on the east side of the railroad tracks close to an abandoned manufacturing facility and appeared to be a large pile of trash.

³ The evidence reviewed is not clear as to whether Gonzalez picked up one rock or two rocks.



View of Gonzalez's Encampment from 57th Street



Close-up View of Gonzalez's Encampment



Photo of large rocks (one marked as Item #10) found at the scene of the officer involved shooting

WITNESS STATEMENTS

Voluntary Statement of Officer Marco Mendoza

Mendoza provided two voluntary statements regarding the circumstances leading to the shooting of Gonzalez.

According to Mendoza, on September 1, 2016, he was dispatched to the area of 2451 E. 57th Street regarding a homeless man refusing to vacate an encampment. Mendoza was assigned to a motorcycle unit and was dressed in a full police uniform.

He arrived at the location on 57th Street, parked his motorcycle along the north curb line and located Jose L., the HPPWD employee who had called for police assistance. Jose L. pointed out the encampment, which was located on the east side of the railroad tracks, north of their position, towards E. 56th Street. Mendoza removed his helmet, placed it on his motorcycle, and then walked north along the railroad tracks toward the encampment. Mendoza announced his presence in English and Spanish and ordered anyone inside the encampment to come out. Mendoza did not receive any response.

Mendoza stopped in front of the encampment. Mendoza heard a male voice and the sound of metal being scraped against rock. When Mendoza looked inside an opening to the encampment, he saw Gonzalez holding a pair of scissors in one hand and a rock in the other; Gonzalez was scraping the scissors against the rock.⁴ Mendoza announced his presence and ordered Gonzalez to put the scissors and rock down and come out of the encampment.⁵

Gonzalez crawled out of the encampment without the rock and scissors and stood in front of the entrance. Mendoza explained to Gonzalez that the encampment was encroaching on a local business and needed to be removed. Mendoza also explained that the trash Gonzalez had collected, including several rocks, was encroaching on the railroad tracks.

Gonzalez became agitated and Mendoza tried to calm him down. Gonzalez told Mendoza that he had been arrested the week prior and that his property had been stolen. Gonzalez also stated that he was an artist and that he was not “fucking leaving.” Mendoza explained to Gonzalez that he had to leave. Gonzalez responded by telling him “Fuck you guys! I’m not going anywhere! If you want me, come get me!”

As Mendoza spoke to Gonzalez, Officer Farmer arrived, parked on 57th Street and walked north towards the encampment. Gonzalez continued to be agitated and screamed profanities at the officers. Farmer stood approximately five feet away from Mendoza, to the south of his location.

As Mendoza, who was about five to ten feet away, began to move towards Gonzalez, Gonzalez picked up two tennis ball size rocks from the ground. Mendoza unholstered his Taser and ordered him to drop the rocks. Gonzalez complied.

Gonzalez then picked up a pipe.⁶ Mendoza ordered him to put it down. Gonzalez complied.

Gonzalez then picked up a large rock. Because he feared that Gonzalez would strike him with the rock, Mendoza shot his Taser at Gonzalez, made contact with his chest, and activated the Taser for five seconds. Gonzalez crouched down and dropped the rock.

After the five second Taser cycle, Gonzalez immediately began to move again and as Mendoza moved toward Gonzalez to restrain him, Gonzalez grabbed a large rock between the size of a softball and a bowling ball, and “wound up” to throw it. Gonzalez was approximately five feet away from Mendoza.

Mendoza raised his left hand to shield his face and turned his upper torso away from Gonzalez. Gonzalez threw the rock and struck Mendoza on the left flank of his torso.⁷ Though Mendoza was wearing a bullet proof vest, he felt the rock strike him forcefully and felt pain from the

⁴ Mendoza described the opening to the encampment as being small and compared it to the opening seen on “dog igloos.”

⁵ Mendoza spoke to Gonzalez in Spanish.

⁶ Mendoza’s statement regarding the pipe is corroborated by Farmer’s statement wherein Farmer described seeing Gonzalez pick up a pipe during his contact with Mendoza. The pipe was recovered at the scene.

⁷ Photographs taken of Mendoza’s after the incident show clearly visible, white and dusty abrasions on the left flank of his shirt.

impact. Almost simultaneously, Mendoza heard two gunshots. Gonzalez fell near the encampment and stopped moving.

Compelled Statement of Officer Gene Farmer⁸

Officer Gene Farmer was interviewed on September 1, 2016, by members of the HPPD regarding the officer involved shooting. The HPPD orders officers who are involved in an officer involved shooting to submit to questioning concerning the performance of their official duties, and Farmer was ordered to do so in the present case.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁸ Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in administrative discipline including termination from public service. *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285. Farmer, like any individual, possesses a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against himself. *Uniformed Sanitation v. City of New York, supra*, at 284-285. Because the HPPD ordered him to answer questions which might expose him to criminal liability, the HPPD compelled Farmer to participate in an interview. The effect of this legal compulsion is that Farmer's statement cannot be used against him in a criminal proceeding, nor can any material derived from the compelled statement be used against him. *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 715. Further, because this compelled statement is a part of Farmer's police personnel file, the statement is confidential and may not be disclosed absent an evidentiary showing and court order. Penal Code section 832.7.

⁹ [REDACTED]

Statements of Jorge E., Jose L. and Venceslao A.¹⁰

Jorge E. and Venceslao A. were at the railroad tracks using a skip loader tractor and a large dump truck, both of which were loud, to remove trash from the area. Both men were employed as maintenance workers for the City of Huntington Park.

While conducting their work, Jorge E. and Venceslao A. heard a voice coming from a homeless encampment next to the railroad tracks. They ordered the unknown speaker to leave the area because they were cleaning up the trash. The speaker refused.

Venceslao A. contacted Jose L., their supervisor, who came to the encampment.¹¹ Jorge E. and Jose L. ordered the unknown person to leave the encampment or else they would call the police. The speaker, who was not visible, refused. Consequently, Jose L. called the police and two motorcycle police officers arrived shortly thereafter. Jose L. left the location.

Jorge E. and Venceslao A. moved their equipment across the street and continued cleaning the area. Due to their location and the noise caused by the skip loader tractor and the dump truck, neither Jorge E. or Venceslao A. heard or saw the officer involved shooting.

AUTOPSY

Deputy Medical Examiner J. Daniel Augustine conducted an autopsy of Gonzalez's body on September 6, 2016, and determined that Gonzalez was struck fatally by one bullet which entered the left portion of his chest and exited through the right side of his back. Augustine recovered two bullet fragments from the exit wound on Gonzalez's body.

Blood samples taken from Gonzalez's body tested presumptively positive for the presence of MDMA and methamphetamine.¹²

LEGAL ANALYSIS

The use of deadly force in self-defense or in the defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505*.

The test for whether an officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1102. Reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the

¹⁰ Although interviewed separately, these statements were consistent and have been summarized below.

¹¹ Jose L. described the encampment as a large pile of cardboard with a small opening approximately 14 inches wide.

¹² MDMA is an acronym for methylenedioxymethamphetamine, an amphetamine, also known in common parlance as Ecstasy.

suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Graham v. Connor* (1989) 490 U.S. 386, 396. “The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.* “The calculus of reasonableness must embody allowance for the fact that police 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.” *Id.* at 396-97.

In California, the evaluation of the reasonableness of a police officer’s use of deadly force is determined by applying a reasonable person acting as a police officer standard. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146 (holding that California law “follows the objective ‘reasonable person’ standard—the trier of fact is required to evaluate the conduct of a reasonable person in the defendant's position [citations omitted] . . . the jury should consider all relevant circumstances surrounding the defendant's conduct. This enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation—but this is not the same as following a special ‘reasonable police officer’ standard.”).

CONCLUSION

The evidence reviewed in this investigation shows that Officer Gene Farmer reasonably believed that Vicente Gonzalez’s escalating and violent conduct presented a deadly threat to him and Officer Mendoza.

From the time he was initially contacted by Mendoza, Gonzalez refused to cooperate with law enforcement. When Mendoza informed Gonzalez that he would have to comply and leave the encampment, Gonzalez informed Mendoza that he would not comply with his orders. Gonzalez unambiguously stated, “Fuck you guys! I’m not going anywhere! If you want me, come get me!” Based on this language, Mendoza reasonably believed that Gonzalez would physically resist being removed from the premises.

Gonzalez followed this statement by picking up various items that could be used as weapons, including large rocks and a pipe, both of which were observed by Officers Mendoza and Farmer. Given his statements, conduct and angry demeanor, Mendoza and Farmer reasonably feared that Gonzalez would use the pipe or rocks to seriously injure them and violently resist his removal from the encampment.

Gonzalez was ultimately tased by Mendoza when he refused to drop a rock in his hand.¹³ However, this use of force was insufficient to persuade Gonzalez to comply with the officers’ orders to stop arming himself with various weapons. Within moments of being tased, Gonzalez escalated his aggressive conduct further by throwing a large rock at Mendoza, which struck him forcefully on the left portion of his chest. At the time Mendoza was struck, he did not have a helmet on to protect his head.

¹³ The evidence reviewed indicates that Gonzalez may possibly have been holding more than one rock at the time he was tased.

Gonzalez then turned his attention to Farmer. In order to stop Gonzalez's attack against him and Mendoza, Farmer fired his service weapon two times at Gonzalez as Gonzalez threw a large rock at him. The rock thrown by Gonzalez struck Farmer on the leg. Gonzalez was struck by one bullet and collapsed.

The evidence reviewed in this case demonstrates that Officer Farmer acted in lawful self-defense and in lawful defense of another when he used deadly force to stop Gonzalez's attack. We are therefore closing our file and will take no further action in this matter.