

**Officer Involved Shooting of Anthony Garcia
Long Beach Police Department**

Officer Suradech Sriwanthana, #5617

J.S.I.D. File #19-0076



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 13, 2019

MEMORANDUM

TO: CHIEF ROBERT LUNA
Long Beach Police Department
400 W. Broadway Avenue
Long Beach, California 90802

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

SUBJECT: Officer Involved Shooting of Anthony Garcia
J.S.I.D. File #19-0076
L.B.P.D. File #19-7601

DATE: August 13, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 9, 2019, non-fatal shooting of Anthony Garcia by Long Beach Police Department (LBPD) Officer Suradech Sriwanthana. It is our conclusion that the shooting of Garcia was accidental and that there is no criminal liability in this case.

The District Attorney's Command Center was notified of the shooting on February 10, 2019, at approximately 1:26 a.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene, and participated in the interview of civilian witnesses.

The following analysis is based on reports submitted to this office by Detectives Michael Hubbard and Adrian Garcia, LBPD, Homicide Detail, Special Investigations Division. Officer Sriwanthana provided a voluntary written statement which was considered as part of this analysis.

FACTUAL ANALYSIS

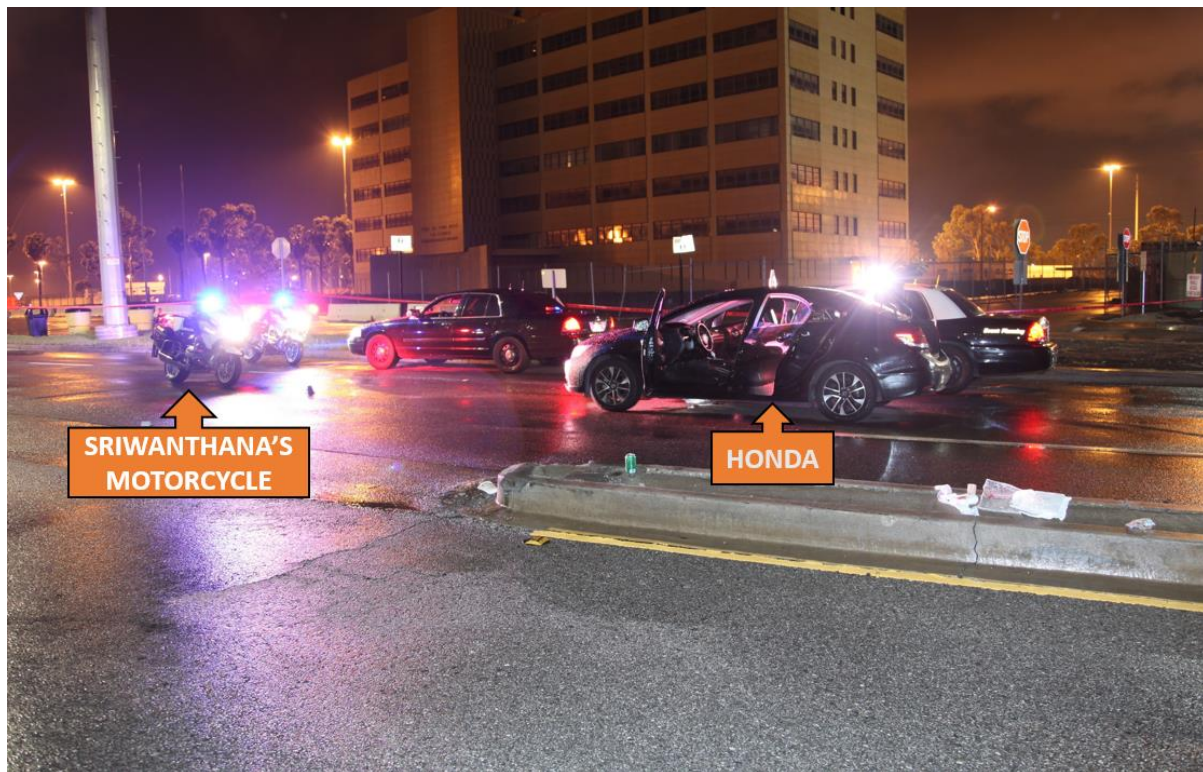
On February 9, 2019, the Queen Mary Park in the City of Long Beach was hosting a reggae festival. Festival attendees were being bused into the event and only people with nearby hotel reservations and workers from the Long Beach Port were allowed through the checkpoint. LBPD Detective Ernest Armond and Officer Kenny Cruz were assigned to screen southbound traffic on Harbor Plaza leading into the event. Armond and Cruz were in full uniform. A marked black and white police vehicle was parked in the number two southbound lane with its overhead lights activated. A dark blue unmarked police vehicle was parked in front of the patrol car with its rear facing red and blue strobe lights activated. Cruz was in the number one lane near the center divider. Armond was in the number two lane near the police vehicles.

At approximately 11:30 p.m., a black Honda Civic approached the checkpoint and came to a stop. Cruz approached the driver side and Armond the passenger side. The driver, later

identified as Anthony Garcia, advised Cruz that he was lost and looking for the freeway. Cruz observed an open bottle of beer in the center console. As Cruz reached into the car to retrieve the beer, he observed the rear driver side passenger, later identified as Jorge G., holding what he believed was another beer between his legs. Cruz placed the first beer on the roof and asked Garcia to roll down the windows. Jorge G. attempted to cover the beer with his right hand and Cruz observed the wooden handle of a gun protruding from his hand. Cruz yelled, “Don’t move!” and grabbed the gun from Jorge G. while drawing his service weapon. Cruz yelled, “Gun! Gun!” in order to warn Armond. Armond and Cruz drew their service weapons.¹

Cruz and Armond ordered the occupants to raise their hands and keep them visible.² Additional units were requested to respond to the scene to assist Armond and Cruz with removing the five individuals from the vehicle. Cruz warned the occupants not to move or they would be shot. They all complied with the officers’ orders.

Uniformed LBPd Motor Officers Suradech Sriwanthana and Sean Deaton responded to the request for assistance. The officers were aware that a gun had been located in the car. Sriwanthana stopped his motorcycle directly in front of the Honda. Deaton stopped his motorcycle closer to the unmarked police vehicle.



Sriwanthana observed the two front seat occupants with their hands raised in the air. Sriwanthana dismounted his motorcycle and drew his service weapon due to the fact that a gun was found in the vehicle. Sriwanthana pointed his weapon toward the Honda as he moved

¹ The recovered firearm was a loaded .22 caliber revolver.

² In addition to Garcia and Jorge G., there was a front passenger and two additional rear passengers.

toward Cruz on driver side of the Honda. Sriwanthana attempted to activate the flashlight mounted to his weapon in order to better illuminate the occupants. The switch to activate the weapon light is located on the front strap of the grip.



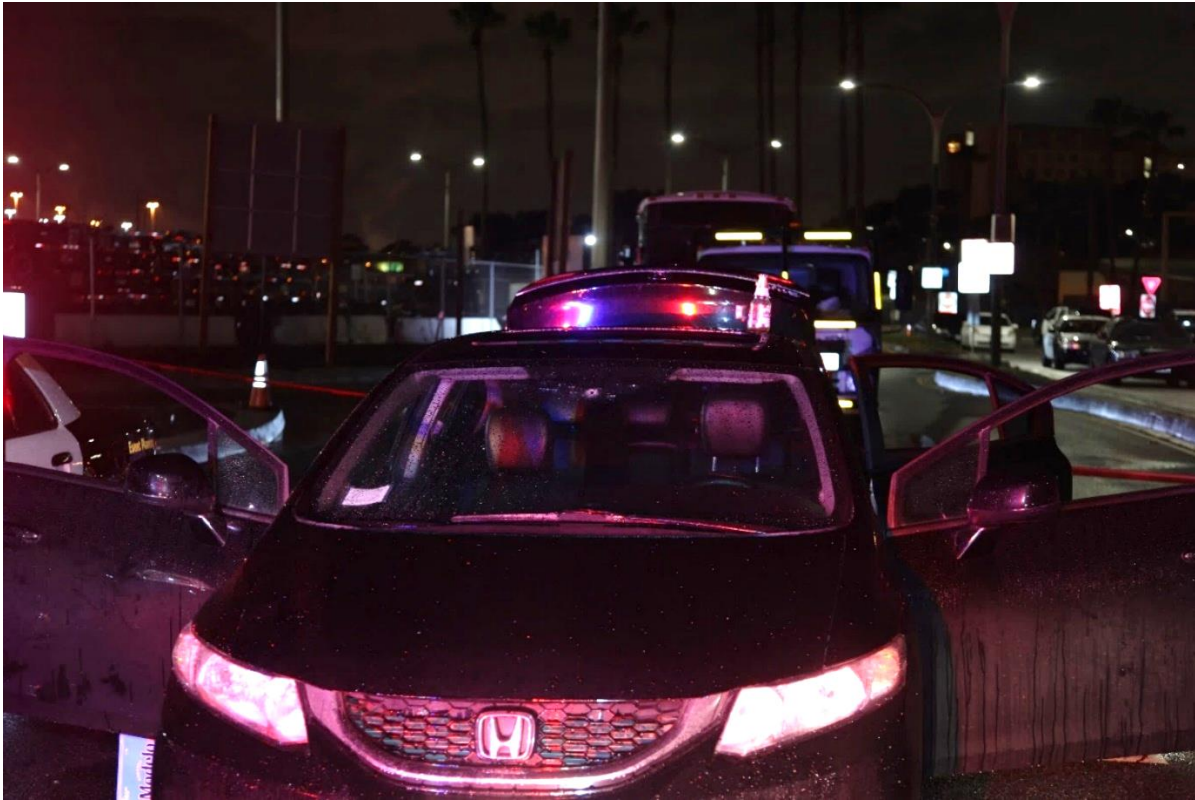
Sriwanthana's service weapon.

Sriwanthana was using a two-handed grip on his service weapon. Sriwanthana used his right middle finger and right ring finger to activate the light by applying pressure to the switch. Sriwanthana was not wearing his normal riding gloves. He was wearing thicker gloves due to the cool weather.³ Sriwanthana could not feel whether the light switch had been activated due to the thick gloves. Additionally, the lights coming from his motorcycle made it difficult for Sriwanthana to visually confirm whether his light had been activated. As Sriwanthana approached Cruz, he squeezed the grip with his right hand two to three times. Sriwanthana heard a gunshot and saw a bullet hole in the windshield of the Honda. Sriwanthana felt the recoil from his weapon which confused him because his finger was not on the trigger and he did not recall pulling it.⁴

³ The Farmer's Almanac states that the high temperature on February 9, 2019, in the City of Long Beach was 62.1°F. The low temperature was 39.9°F. The average wind speed was 3.4 knots and the maximum wind speed was 17.1 knots. There was light rain in the area that is visible in the crime scene photographs.

⁴ Sriwanthana routinely trained and shot the combat qualification courses using his normal riding gloves. Sriwanthana never shot a qualification course with the thicker gloves.

Armond and Cruz heard Sriwanthana and Deaton approach from behind as they were covering the Honda with their weapons. A few seconds later, the officers heard a gunshot followed by Sriwanthana stating that he had an “AD.”⁵ Deaton heard a gunshot immediately after dismounting his motorcycle. He did not see where the shot came from but observed a bullet hole in the Honda’s windshield. Deaton also heard Sriwanthana state the he had just had an “AD.”⁶



Bullet hole in the middle of the front windshield, three inches from top.

Injury

Garcia was struck by the round fired by Sriwanthana. He was transported to St. Mary Medical Center and treated for a gunshot wound to the inner right forearm. There was no exit wound.

⁵ “AD” is a term used to describe the accidental discharge of a firearm.

⁶ A “shots fired” call came out over the police radio at 11:36:01 p.m. Approximately 30 seconds later it was broadcast that the shooting was an accidental discharge.



Entry wound on Garcia's inner right forearm.

Statement of Jorge G.

The revolver belonged to Garcia. Garcia had the gun for protection because they were going to a party in the City of Compton. Garcia had recently been robbed of a motorcycle at gunpoint. Adrian F., who was the middle rear passenger, wanted to hold the gun. Garcia handed Adrian F. the gun before arriving in Long Beach. Adrian F. placed the gun in his fanny pack. Adrian F. threw the gun into Jorge G.'s lap when they arrived at the police checkpoint. Jorge G. placed his hand over the firearm. Cruz approached the driver's side of the car and asked that the rear window be rolled down. Cruz then yelled, "Gun! Gun! Gun!" Moments later the front windshield shattered.

Statement of Anthony Garcia

Garcia was unaware that there was a gun in the car. The Honda belonged to Jazmin R., who was the front seat passenger. Garcia became lost while searching for the 710 Long Beach Freeway. He arrived at a police checkpoint manned with three uniformed officers. Cruz approached on the driver side and Armond on the passenger side. Jazmin R. had an open beer and Cruz asked for it. Garcia handed the beer to Cruz. At that time, Jorge G. became nervous and started to move around in the back seat. Cruz told Garcia to roll down the windows. Garcia observed Jorge G. with a gun in his front right pants pocket or waistband. Cruz told Jorge G. to give him the weapon. Jorge G. complied. Everyone in the car put their hands above their heads. The officers called for backup because of the gun and the number of people in the Honda. Three motor officers arrived to their location. Garcia observed Sriwanthana dismount his bike eight to ten feet from the Honda and point his weapon toward them. Sriwanthana fired one shot through the

windshield without warning. The round struck him in the forearm while his hands were raised in the air.

Statement of Mikelle P.

Mikelle P. was the right rear passenger. Cruz and Armond approached on either side of the Honda at the checkpoint. Someone gave Cruz an open beer. Cruz then asked Garcia to roll down the rear window. Cruz observed a gun in Jorge G.'s lap and retrieved it. At the same time, Armond drew his weapon. Additional units arrived to the scene. Sriwanthana stopped his motorcycle approximately 18 to 20 feet in front of the Honda. Sriwanthana then fired one shot. The other officers at the location appeared to be surprised. After the gunshot, Mikelle P. heard an unknown person say the letter "A" followed by something else. Sriwanthana then walked to the passenger side of the Honda and uttered the letter "A" followed by something Mikelle P. could not recall.

Statement of Jazmin R.

Jazmin R. was the front passenger. Cruz observed a beer in the center console and reached inside the car and removed it. Jazmin R. told the officer the beer was hers and apologized. Cruz asked everyone to roll down their windows. Cruz illuminated the car's interior with his flashlight and said, "There's a gun." Cruz and Armond pointed their weapons at the car and told everyone to put their hands in the air. The officers then requested assistance over the police radio. Moments later, Sriwanthana arrived and stopped in front of the Honda. Sriwanthana dismounted his motorcycle and pointed his firearm at them and told them not to move. Sriwanthana used a flashlight attached to his gun to illuminate the interior of the car. At that time, Jazmin R. heard a gunshot and saw Sriwanthana lower his weapon. The other officers appeared surprised at the gunfire. Jazmin R. did not believe that Sriwanthana purposely fired into the car and believes it could have been an accident.

Statement of Adrian F.

They stopped at the checkpoint and the officers were telling them to drive in another direction. An officer retrieved a gun from Jorge G. and ordered everyone to raise their hands. At that time, an officer shot Garcia.

Sriwanthana's Gloves

On March 5, 2019, Sriwanthana met with investigators at the LBPD shooting range. Photographs were taken of Sriwanthana holding his service weapon while wearing his regular riding gloves and the gloves he was wearing on February 9, 2019.



Gloves worn by Sriwanthana on February 9, 2019.



Sriwanthana's regular riding gloves.



Two-handed stance used by Sriwanthana wearing normal riding gloves.



Two-handed stance used by Sriwanthana with gloves worn on February 9, 2019.



Close-up view of two-handed stance with gloves worn on February 9, 2019.



Finger at trigger in two-handed stance with regular riding gloves.



Finger at trigger in two-handed stance with gloves worn on February 9, 2019.

LEGAL ANALYSIS

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending 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*.

To be convicted of attempted murder, the defendant must intend to kill another person. See, *CALCRIM No. 600*

To be convicted of assault with a firearm, a person must act willfully. Someone commits an act willfully when he does it willingly or on purpose. See, *CALCRIM No. 860*

To be convicted of shooting a firearm in a grossly negligent discharge manner in violation of Penal Code §246.3, a person must have intentionally fired a weapon and fired in a grossly negligent manner. A person acts with gross negligence when he acts in a reckless way that creates a high risk of great bodily injury or death and a reasonable person would have known that acting that way created such a risk. See, *CALCRIM No. 970*.

A person cannot be convicted of attempted murder, assault with a firearm or shooting a firearm in a grossly negligent manner if they acted accidentally, without the intent required for that crime. See, *CALCRIM No. 3404*.

CONCLUSION

The evidence examined shows that on February 9, 2019, Sriwanthana fired one round from his service weapon striking Garcia's inner right forearm. At the time, Garcia was complying with orders to keep his hands above his head, as evidenced by the location of the entry wound. Sriwanthana stated that the gunshot was a result of an accidental discharge of his weapon while he was attempting to activate the flashlight attached to his firearm. Sriwanthana was not wearing his regular riding gloves due to the cold and rainy weather. The cold-weather gloves he was wearing were thicker and bulkier. Sriwanthana did not routinely train with the thicker gloves and never wore them during combat qualification courses. Sriwanthana did not have his finger on the trigger and did not recall pulling the trigger.

Under the law, Sriwanthana bears no criminal liability if the evidence shows that the gunfire was a result of an accidental discharge of his weapon. There is no evidence that Sriwanthana intentionally or willfully fired his weapon at Garcia or the Honda. Sriwanthana acknowledged that the occupants visible to him were complying with police orders. After he fired his weapon, Sriwanthana immediately stated it was an accidental discharge. Armond, Cruz and Deaton heard Sriwanthana say he accidentally fired his weapon. This is corroborated by the fact that thirty seconds after the broadcast of "shots fired" over the police radio, it was broadcast that it was an accidental discharge. Mikelle P. overheard Sriwanthana say the letter "A" followed by something he could not recall, consistent with uttering the words "AD." Finally, Jazmin P., who

had a clear view of Sriwanthana from the front passenger seat, believed that the gunshot was an unintentional accident.

Furthermore, there is no evidence presented to suggest that Sriwanthana had any knowledge, or should have had any knowledge, that wearing the cold-weather gloves while operating his weapon's flashlight would create a high risk of great bodily injury or death. Although the gloves are thicker than Sriwanthana's normal riding gloves, the difference between the two are not significant enough to have caused a reasonable person to believe that it would be unsafe to operate a firearm while wearing them.

We conclude that Officer Suradech Sriwanthana accidentally fired one round from his service weapon, striking Garcia. We are therefore closing our file and will take no further action in this matter.