

**Officer Involved Shooting of Arturo Valdez
Los Angeles Police Department**

Officer Gabriel Blanco, #36365

J.S.I.D. File #16-0180



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 19, 2017

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
Los Angeles Police Department
Force Investigation Division
100 W. 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 Arturo Valdez
J.S.I.D. File #16-0180
F.I.D. File #F022-16

DATE: October 19, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 10, 2016, fatal shooting of Arturo Valdez by Los Angeles Police Department (LAPD) Officer Gabriel Blanco. We have concluded that Officer Blanco acted lawfully in defense of others.

The District Attorney's Command Center was notified of the shooting at 10:26 p.m. on April 10, 2016. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, firearms analysis reports, photographic evidence and witness statements submitted to this office by LAPD Force Investigation Division (FID) Detective Anthony Rheault. The compelled statements of officers, including Officer Blanco, were considered in this analysis.

FACTUAL ANALYSIS

On April 10, 2016, at approximately 8:05 p.m., Jose D [REDACTED], a security guard at the [REDACTED] Apartments in Boyle Heights, received a call on the security office phone from an unidentified female caller. The caller reported a person on the roof of one of the buildings was attempting to break into apartments. D [REDACTED] instructed his partner, Anthonysha M [REDACTED], to call 9-1-1.

D [REDACTED] and M [REDACTED] arrived to the rear of the building at [REDACTED]. Upon arrival, D [REDACTED] received a second call from the same caller, advising him that the suspect was on the roof looking down at him. D [REDACTED] and M [REDACTED] observed a man, later identified as Arturo Valdez, on the roof. Valdez jumped from the second story roof to the first story roof of Apartment [REDACTED], where eighty-two-year-old Min P [REDACTED] lived with his wife.¹ Valdez broke a window and entered the apartment. D [REDACTED]

¹ P [REDACTED] was home alone at the time of the incident.

used his flashlight to illuminate the east window of P█'s apartment and saw the broken window. D█ heard the sounds of objects being broken inside the apartment, and then heard a male voice screaming. D█ saw Valdez drag P█ to the bedroom window. Valdez was holding P█ by the neck with a knife placed at his throat. In an effort to stop the attack, D█ yelled out to Valdez that the police were on the scene and Valdez was surrounded.²

Immediately prior to the attack, P█ was sitting in a chair in the living room of his apartment with the television on and the volume set on high.³ P█ suddenly felt someone behind him, holding him by the neck. Valdez had his left hand around P█'s throat, while holding a knife with a six-inch blade in his right hand against P█'s face and neck.⁴

Valdez repeatedly yelled, "Give me money! Give me money!" while dragging P█ from the living room to the bathroom, looking for money. Valdez continued to hold P█ by the neck with his left hand, while holding the knife in his right hand. Valdez then dragged P█ through the kitchen and into one of two bedrooms. P█ continued to tell Valdez that he did not have any money. Throughout the incident, P█ yelled for help and, at one point, pounded on the walls in an effort to get the neighbors to help him. While dragging P█ throughout the apartment, Valdez pulled drawers out of the dressers and broke objects.

P█ believed that Valdez would kill him once he found money. In an effort to stall and give his neighbors time to get help, or for the police to arrive, P█ told Valdez that there may be money in a pair of pants he had in the living room. Valdez told him, "Find money or you're dead."⁵

P█ repeatedly told Valdez that he had no money. In an effort to stop the attack, P█ told Valdez to come back the following day and he would give him money. Valdez responded, "No!" and continued to drag P█ around the apartment looking for money. At one point, Valdez dragged P█ into one of the bedrooms, locked the bedroom door, placed the knife on top of a dresser, and picked up P█ by placing one arm under the back of his knees and the other arm behind P█'s neck.⁶ Valdez folded P█ in half, causing P█'s knees to touch his face. Valdez then slammed P█ to the floor two or three times. When P█ screamed for help, Valdez stuffed something in his mouth to muffle the sound. During the attack, Valdez picked up an electrical cord and attempted to strangle P█ and bind his hands. This was unsuccessful because the cord was too short.

P█'s neighbor, Victor B█, resided in the unit next door. B█ was outside his apartment, on the second-floor, porch area that was shared with P█'s apartment. B█ heard what he believed to be P█ scuffling with somebody. Through the front window of P█'s apartment, B█ saw Valdez dragging P█ around inside the apartment. B█ banged on the window, yelling, "Hey, Grandpa, are you okay?"⁷ B█ heard P█ say, "No! No! Help! Help! I need help!"

B█ yelled to Valdez, "Hey, open the door. What are you doing? Who are you? I never seen you." Valdez responded, "Who are you?" B█ said, "I'm a neighbor. Open the fucking door! I

² The police had not yet arrived. D█ remained outside of the apartment building.

³ The apartment is located on the second floor of a multi-unit complex located at █ in the City of Los Angeles.

⁴ Valdez had taken the butcher-style knife from P█'s kitchen.

⁵ The conversation was in English, although P█'s primary language is Korean.

⁶ P█ is five feet, three inches tall and weighs 130 pounds.

⁷ B█ referred to P█ as "Grandpa" but the two are not related.

want to get inside!” B■■■■ then yelled to his family members to bring him a baseball bat and a Taser. B■■■■’s wife brought him a baseball bat. His cousin, Israel A■■■■, joined B■■■■ and his wife outside of P■■■■’s apartment.⁸ Through the window, B■■■■ observed Valdez holding a shiny object in his hand.

B■■■■ used the bat to hit P■■■■’s front door a couple of times in an attempt to scare Valdez. When there was no reaction, B■■■■ broke the window next to P■■■■’s front door, reached inside, unlocked and opened the front door. B■■■■ told Valdez, “Hey, let go of the old man. What are you doing? Who are you? Just let go of the old man and we’ll deal with you outside.” B■■■■ saw Valdez bring the knife to P■■■■’s throat, drag him to a bedroom and lock the door. B■■■■ heard sounds from the bedroom as if Valdez was blocking the door with objects. B■■■■ and A■■■■ attempted to open the bedroom door. They had difficulty opening it, and decided to wait outside the apartment to prevent Valdez from leaving.

At approximately 8:18 p.m., LAPD officers were dispatched to the location.⁹ Hollenbeck Officers Gabriel Cervantes and Gabriel Blanco advised they would handle the incidents.¹⁰ Both officers were equipped with Body Worn Video (BWV) cameras and the police vehicle was equipped with a digital In-Car Video System (DICVS).

Upon arrival, Cervantes and Blanco exited their vehicle and were directed by a resident to Apartment ■■■■.¹¹ The officers observed the front door of P■■■■’s apartment to be open and the front window shattered.¹² Through the open front door, officers observed that the apartment was in disarray and was flooded with water.¹³

Officers Eriverto Montano and Carlos Lizarraga arrived, and Los Angeles Fire Department (LAFD) rescue personnel arrived at the location, but staged at a distance because the scene was not yet secured.

The officers developed a tactical plan wherein Montano was going to act as the point officer because he was equipped with a shotgun. Cervantes, Blanco and Lizarraga would clear the areas to the left and right, and Montano would be responsible for the areas in front of them as they moved forward.¹⁴

At approximately 8:38 p.m., the four officers entered the apartment. Montano was at the front with Blanco on his left side and Lizarraga and Cervantes on his right side. Blanco’s BWV captured him telling the officers to advance slowly. The officers systematically cleared the living room, bathroom and the east bedroom. Blanco’s BWV captured P■■■■’s screams from

⁸ B■■■■’s wife called 9-1-1, but declined to be interviewed and stated she did not see or hear anything. A■■■■ declined to be interviewed.

⁹ Between 8:18 p.m. and 8:30 p.m., there were several updated broadcasts describing the incident as “burglary,” “vandalism,” and “burglary in progress. . . suspect held the victim hostage by placing a knife to the victim’s throat.”

¹⁰ Cervantes and Blanco were in uniform, with Cervantes driving the black and white police vehicle. Both officers were equipped with department approved firearms. Blanco was equipped with a .45 caliber Glock Model 21 semiautomatic pistol equipped with a Surefire X200 weapon mounted light

¹¹ The resident advised officers that there were multiple suspects with weapons because he mistook B■■■■ and A■■■■ for suspects.

¹² This window was broken by B■■■■ when he attempted to help P■■■■.

¹³ Valdez had broken the toilet tank in the bathroom and water flooded the apartment.

¹⁴ Blanco assumed the role as Team Leader.

behind the closed door of the west bedroom. Blanco kicked the bedroom door three times, causing it to break at the hinge.¹⁵ The officers had a partial view of Valdez, armed with a knife, holding P [REDACTED] by the neck.¹⁶ Valdez appeared to be sweating profusely and had a blank stare. Officers commanded Valdez to drop the knife multiple times. One officer spoke in Spanish to Valdez, saying “Como te llamas?”¹⁷ The BWV captured Valdez responding, “No Papa” to the repeated order to drop the knife.¹⁸

Blanco removed the bedroom door and placed it against a wall near the bathroom.¹⁹ He then repositioned himself in the hallway, outside of the west bedroom’s doorway. Lizarraga and Montano were crouched next to Cervantes, who remained standing as he continued to order Valdez to drop the knife. Valdez did not comply.

Suddenly, Valdez dropped the knife on the floor, and then immediately picked it up and again held it to P [REDACTED]’s neck. During this time, Blanco, Cervantes and Lizarraga entered the room. Montano remained in the hallway. Lizarraga and Cervantes were to the southeast of Valdez, and Blanco was to the north of Valdez.²⁰ Valdez stood against the bedroom wall and held P [REDACTED] in front of him with his right arm around P [REDACTED]’s neck and the knife in his right hand, pointing at P [REDACTED]’s neck.²¹ Again, the officers yelled for Valdez to drop the knife, but he refused to comply. When Valdez moved his head off to one side, Blanco fired one round, striking Valdez in the head.²² Valdez collapsed to the ground and dropped the knife.

The officers helped the victim exit the room. Lizarraga and Montano handcuffed Valdez, who was lying on the floor. Blanco broadcast “Code 4” and requested an ambulance for Valdez.

At approximately 8:49 p.m., paramedics entered the apartment and examined Valdez. They observed him in a prone position on the bedroom floor, unresponsive to any stimuli. They noted a single gunshot wound to the left parietal region of his head. At 8:52 p.m., Valdez was pronounced dead.

P [REDACTED] sustained numerous superficial stab wounds over his entire body.²³ He declined to be treated by LAFD at the scene. On April 11, 2016, P [REDACTED] sought his own medical attention at Good Samaritan Hospital. He was diagnosed with a compression fracture to his spine and was admitted to the hospital. He underwent surgery on April 14, 2016.

On April 12, 2016, an autopsy was performed by Vladimir Levicky, M.D., Deputy Medical Examiner for the County of Los Angeles. The cause of death was one fatal gunshot wound

¹⁵ It had been barricaded with furniture from inside the bedroom.

¹⁶ Valdez and P [REDACTED] were approximately seven feet away from the officers.

¹⁷ Spanish for “What is your name?”

¹⁸ Blanco heard Valdez saying, “Get out. Get out.”

¹⁹ All rooms were very close together.

²⁰ [REDACTED]

[REDACTED] Blanco and Cervantes were in a “V” configuration with Valdez (and P [REDACTED]).

²¹ Blanco observed blood on P [REDACTED].

²² Blanco was approximately 6 ½ feet from Valdez when he fired his weapon.

²³ His injuries included stab wounds to his head, upper back, neck, right shoulder and hand.

penetrating the head.²⁴ Toxicology analysis revealed the presence of methamphetamine and marijuana in a blood sample taken from Valdez' heart.



BWV showing Valdez holding the knife at P [redacted]'s neck immediately prior to the shooting.



Photograph of butcher-style knife with approximately six-inch blade

²⁴ The bullet entered the left temple in front of the ear. Subsequent forensic analysis revealed this bullet recovered during the autopsy was consistent with ammunition used in Blanco's firearm. A discharged cartridge case found at the scene was also consistent with being fired from Blanco's firearm.

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 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. Deadly force is also permitted to resist the commission of a “forcible and atrocious” felony, such as robbery. *People v. Ceballos* (1974) 12 Cal.3d 470; *See also*, CALCRIM No. 505.

The right of self-defense is the same whether the danger is real or apparent. If a person acted from reasonable and honest convictions he cannot be held criminally responsible for a mistake in the actual extent of the danger, when other reasonable men would alike have been mistaken. *People v. Jackson* (1965) 233 Cal.App.2d 639. In protecting himself or another, a person may use all 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 injury which appears to be imminent. *See also*, CALCRIM No. 3470.

The “reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. 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.” The reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident. *Graham v. Connor* (1989) 490 U.S. 386, 396-397. “[T]hus, under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.

CONCLUSION

The evidence examined in this investigation shows that Arturo Valdez broke into 82-year-old Min P█’s apartment, placed a butcher knife to his throat and dragged him around the apartment looking for money. Valdez picked up P█ and slammed him to the floor, fracturing his spine. Despite the efforts of security guard D█ and neighbors B█ and A█, Valdez refused to halt his attack on P█. Similarly, when the officers arrived, Valdez steadfastly refused to surrender, or to drop the knife, despite repeated orders to do so by the officers. Reasonably believing that Valdez posed an imminent threat to P█’s life, and having only a split second to make a decision when he saw Valdez momentarily move his head away from P█, Officer Blanco fired one shot, killing Valdez and, quite possibly, saving P█’s life. The body worn video supports the circumstances perceived by Blanco and the other officers.

After a thorough analysis, we conclude that Officer Blanco acted lawfully in the defense of another. We are closing our file and will take no further action in this matter.