

Officer Involved Shooting of Daniel Perez
Los Angeles Police Department

Officer Ian Chessum, #40895

J.S.I.D. File #16-0505



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 16, 2018

MEMORANDUM

TO: COMMANDER ALAN HAMILTON
Force Investigation Division
Los Angeles Police Department
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 Daniel Perez
J.S.I.D. File #16-0505
F.I.D. File #F064-16

DATE: October 16, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 2, 2016, fatal shooting of Daniel Perez by Los Angeles Police Department (LAPD) Officer Ian Chessum. It is the conclusion of this office that Officer Chessum acted reasonably and lawfully in self-defense when he used deadly force against Daniel Perez.

The District Attorney's Command Center was notified of the shooting on October 2, 2016, at approximately 6:20 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 and witness statements taken during the investigation by the LAPD Force Investigation Division (FID), and submitted to this office by Detective Jennifer Kim. The reports also include photographs, video recordings, and radio communications recordings.

FACTUAL ANALYSIS

On October 2, 2016, at approximately 4:39 p.m., Daniel Perez called 9-1-1 and reported a male Hispanic, approximately 17 years of age, wearing black pants and a gray sweater, but no shirt, was walking with a black Beretta handgun in the pocket of his sweater. Perez stated that the suspect was last seen on 48th Street and Ascot Avenue, walking toward Ascot Elementary School. When the operator requested a call back phone number, the line disconnected.

It was determined later during the investigation that Perez called 9-1-1 from his own cell phone, and, but for the "no shirt" description, Perez described his own clothing and actions.¹

Chessum and Jonathan Sanchez, who were on patrol and in uniform, responded to the call. As the officers were en route to the radio call, with Sanchez driving and Chessum in the passenger seat,

¹ Perez was 16 years old at the time of the incident, and was wearing black pants, and a gray hooded sweatshirt over a black T-shirt, and a white undershirt.

Chessum twice attempted to contact the reporting party at the phone number listed in the comments of the radio call. However, both attempts went to an automated voicemail message. The officers, along with additional police units, searched the area, but were unable to locate a suspect. An overhead air unit directed the officers to potential suspects with negative results. At approximately 4:55 p.m., Chessum and Sanchez cleared the call, but they remained in the area to continue searching for a possible suspect.

As Chessum and Sanchez traveled south on Ascot Avenue, Gerson Q. and Perez were walking north on Ascot Avenue, from the northwest corner of 46th Street and Ascot Avenue. At this point, Sanchez did not suspect Perez was involved in the incident because Perez did not appear to be alarmed by their presence, and the suspect in the comments of the call was described as having no shirt on. The officers traveled past Gerson Q. and Perez, and continued south on Ascot Avenue toward 47th Street.

The officers' attention was drawn to Perez when Perez started running in a northeast direction across Ascot Avenue, leaving Gerson Q. standing at the west sidewalk of Ascot Avenue. Sanchez made a U-turn, and positioned the patrol vehicle in a northeasterly direction, alongside parked vehicles along the east curb of Ascot Avenue.² Chessum exited the patrol vehicle, closed the passenger door, and took cover behind a white pick-up truck as he called out, "Come here." Perez stopped, and faced away from the officers with his hands in his pockets.

Sanchez was still in the process of parking the patrol vehicle and exiting the driver's side when Perez turned towards Chessum, holding what appeared to be a black semiautomatic handgun in his right hand, and aimed it at Chessum. Chessum yelled "Drop it!" and fired three rounds at Perez, striking him on the chest and right hip.



Perez Retrieving Gun from Front Pocket of his Sweatshirt

² Sanchez stated, "So it was a little bit suspicious, so I thought we'd catch up and see what he [Perez] was doing." Sanchez added, "So we were going to – our – my intention was just a consensual encounter, basically, and ask him what he was doing, if he, maybe if he heard any – seen anybody with a gun or anything like that."



Close-up View of Perez Retrieving Gun from Front Pocket of his Sweatshirt

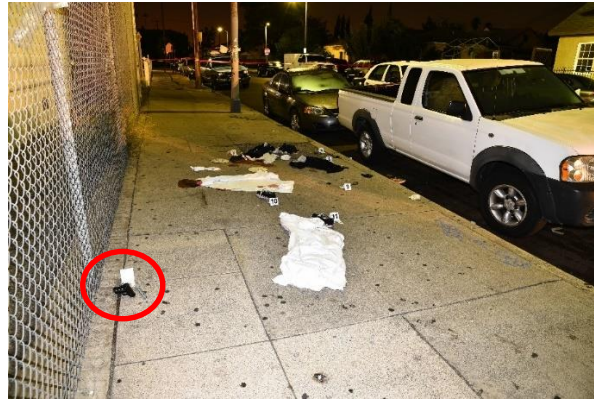


Perez Aiming Gun at Officer Chessum



Close-up View of Perez Aiming Gun at Officer Chessum (Reflected in Shadow)

Perez fell onto the sidewalk, dropping the black handgun on the ground, approximately two to three feet from his outstretched hand. Sanchez used his foot to quickly move the handgun out of Perez's reach, and next to the chain link fence of Ascot Elementary School.



Perez's Gun Next to the Chain Link Fence



Perez's Gun in Evidence Box

Perez rolled onto his back, remained in a supine position, but continued moving both of his arms. Additional units quickly responded to the scene, and Sanchez, with the assistance of Officer Peter Mastrocinque, handcuffed Perez. During a pat-down search of Perez, Mastrocinque removed two cell phones and a mobile internet device from Perez's pants pockets.

Paramedics were called to the scene, and transported Perez to the Los Angeles County – University of Southern California (LAC-USC) Medical Center where he was pronounced deceased.

Statement of Gerson Q.

Gerson Q. was standing on the corner of 46th Street and Ascot Avenue, when he was approached by Perez who asked Gerson Q. if he could hang out with him.³ Gerson Q. responded, "No." Gerson Q. then crossed the northeast corner of 46th Street and Ascot Avenue, before continuing north on Ascot

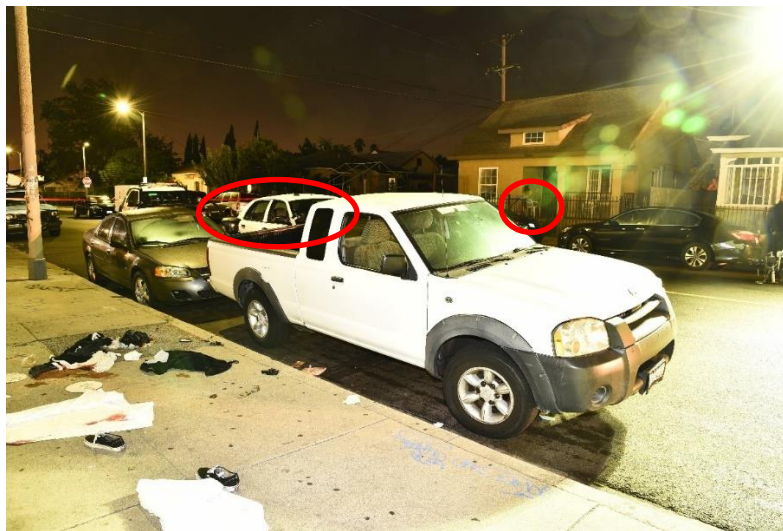
³ Gerson Q. was thirteen years old, and lived on [REDACTED] at the time of the incident. Gerson Q. did not know Perez, and had no contact with Perez prior to this incident.

Avenue. Perez walked alongside him with both of his hands inside the pockets of his sweatshirt. Perez's face was a little dirty, his eyes were red, and he looked a little bit scared. Perez again asked Gerson Q., "Can I hang out with you? Hide me."⁴ Gerson Q. again replied, "No." Perez then stated, "I just killed a guy." When Gerson Q. told Perez that he did not believe him, Perez removed his right hand from the right pocket of his gray hooded sweatshirt and showed Gerson Q. a black handgun. Perez re-iterated that he killed "them" as he placed the handgun back into his right sweatshirt pocket.⁵

At about this time, Chessum and Sanchez were traveling south on Ascot Avenue in search of the suspect described in Perez's 9-1-1 call. With his back toward the officers, Perez looked back at the patrol vehicle, turned quickly and asked Gerson Q. if "they" (the police officers) were watching him. As the officers' vehicle passed by on Ascot Avenue, Perez began to run in a northeast direction across Ascot Avenue. Gerson Q. remained standing at the west sidewalk of Ascot Avenue. The officers exited their vehicle, and ordered Perez to "Freeze!" Perez then retrieved the gun out of his front sweatshirt pocket with his right hand, and extended his arms halfway holding the gun with his right hand. Gerson Q. heard the passenger officer fire two rounds at Perez. Gerson Q. immediately ran home following the shooting.

Statement of Carl A.

Carl A. was seated on a white chair by the front door of his residence located on [REDACTED], when he observed Perez walking northbound on Ascot Avenue, across the street from Carl A.'s residence. Carl A. stated, "The young man [Perez] was walking off and bam the officer man pulled up and said, 'Hey.' And the guy took off running. Player [Perez] just – just drew a little stance. And then it was three shots and he was down."⁶ Carl A. concluded, "He [Perez] wanted to lose his life today. Yes, he drew."



Carl A.'s White Chair by his Front Door and the Officers' Patrol Vehicle on Ascot Avenue

⁴ Chessum and Sanchez's patrol vehicle was traveling south on Ascot Avenue at this time.

⁵ Gerson Q. opined that the gun looked like a "real" gun. The investigation later revealed that the gun was a BB gun with an orange tip, which had been covered with black marker.

⁶ Carl A. stated that although he did not actually see a gun in Perez's hands, because a white truck was in front of him partially blocking his view, it appeared Perez drew a gun based on his hand "motions." Carl A. described Perez as appearing to aim a gun, at a 45-degree angle, at the officers.

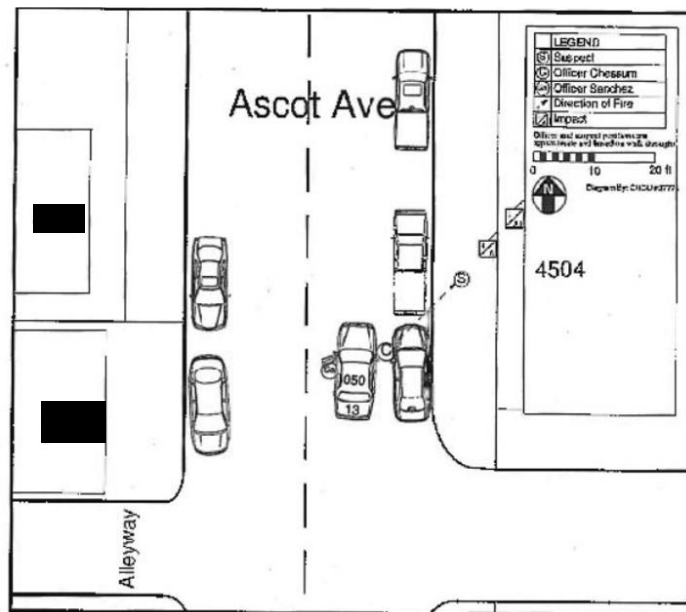
Statement of Officer Jonathan Sanchez

Sanchez and Chessum were on patrol when they responded to a radio call of a man with a gun at 48th Street and Ascot. The incident history identified the suspect as a male Hispanic, 17 years of age, no shirt, gray sweater and black pants, walking with a black Beretta handgun in his sweater. The suspect was last seen walking from 48th Street and Ascot Avenue toward Ascot Elementary School.

Sanchez and Chessum, along with additional police units and an air unit, searched the area but were unable to locate the suspect. At approximately 4:55 p.m., Sanchez and Chessum cleared from the call, but they remained in the area to continue searching for the possible suspect.

As Sanchez and Chessum traveled south on Ascot Avenue from Vernon Avenue, Sanchez observed Gerson Q. and Perez walking north on Ascot Avenue from the northwest corner of 46th Street and Ascot Avenue. Gerson Q. and Perez stopped, and appeared nervous as they continued to look at the patrol vehicle. At that point, Sanchez did not suspect Perez to be involved in the incident because Perez did not appear alarmed by their presence and the suspect in the comments of the call was described as having no shirt on. Sanchez and Chessum traveled past Gerson Q. and Perez, and continued south on Ascot Avenue toward 47th Street.

Shortly thereafter, Chessum alerted Sanchez that Perez was running across Ascot Avenue. Sanchez and Chessum decided to monitor Perez's activities and initiate a consensual encounter in order to eliminate him as the suspect. Sanchez made a U-turn and parked the patrol vehicle in a northeasterly direction, along the east curb of Ascot Avenue. Chessum exited the patrol vehicle, closed his passenger door, and took cover behind a white pick-up truck parked at the east curb of Ascot Avenue. Chessum may have said something to Perez at this point, but Sanchez could not be sure.⁷



The Officers' and Perez's Position at the Time of the Shooting

⁷ Sanchez stated, "I can't remember if he said anything at all. I mean, I know it sounded like he said something but I'm not sure exactly what he said, if it was 'Hey' or I'm not – I can't remember."

Sanchez was in the process of exiting the patrol vehicle when he observed Perez turn counterclockwise, holding a black semiautomatic handgun in his right hand, and aim it at Chessum. Sanchez un-holstered his service weapon and aimed in Perez's direction, when he heard Chessum fire three to four rounds at Perez.⁸

Perez fell onto the sidewalk, dropping the handgun on the ground next to his outstretched hand. Sanchez walked north of Perez, and saw what appeared to be a black-semiautomatic handgun approximately two to three feet from Perez's outstretched hand. Sanchez moved the handgun out of Perez's reach by moving it with his boot further northeast of Perez, next to the chain link school fence.

Sanchez, assisted at this point by Mastrocinque, handcuffed Perez. Mastrocinque conducted a pat-down search of Perez and removed two cell phones and a mobile internet device from Perez's pants pockets. Paramedics responded shortly thereafter, and transported Perez to the hospital.

Sanchez advised additional arriving units of the description and last known location of Gerson Q., and directed them to detain him as a possible suspect.⁹

Statement of Veronica and Cleto P.

Veronica and Cleto P., Perez's parents, spoke with FID investigators on October 6, 2016, at Newton Police Station. Veronica and Cleto P. stated that Perez had a history of depression and suicidal ideation, which stemmed from an incident in which he was a victim of a robbery in April 2016.¹⁰

In May 2016, Perez notified a teacher at school that he wanted to kill himself. In June 2016, Perez cut his wrists, which required hospitalization at the University of California, Los Angeles (UCLA) Medical Center.¹¹ Perez continued receiving treatment for his depression at Del Amo Hospital in Torrance. Perez was prescribed a month's worth of prescription medication, which was also supplemented by holistic medication.

During the evening of October 2, 2016, Veronica P. returned home with her youngest son, observed Perez's bedroom door closed and assumed he was sleeping.

On the morning of October 3, 2016, at approximately 10:30 a.m., Veronica P. went to the Newton Area Police Station and reported Perez missing. At approximately 2:00 p.m., she was in the kitchen of her residence when she observed a torn triangular piece of white notebook paper on the table. Scribbled on one side of the paper in Perez's writing were the words, "Bye Anthony Big Brother," and "Amo Mama Veronica" on the other side.¹²

⁸ Chessum, in fact, only fired three rounds at Perez.

⁹ Gerson Q. was subsequently located by officers in front of his residence on [REDACTED], and it was determined that he was a witness and possible victim of a brandishing of a firearm.

¹⁰ Per DR 16-13-09652, Perez reported that he was a victim of a robbery and his iPod music device was taken by four men in the area of East 48th Street and Avalon Boulevard. Perez failed to respond to Newton Robbery Division detectives' follow-up attempts to contact him regarding his initial report.

¹¹ Kristy McCracken, the Coroner Investigator, noted that Perez's body examination revealed "There were multiple old healed apparent cutting scars down his [Perez's] inner left forearm and on his inner left wrist."

¹² Anthony is Perez's five-year old brother. "Amo Mama Veronica" is Spanish for "I love Mother Veronica."

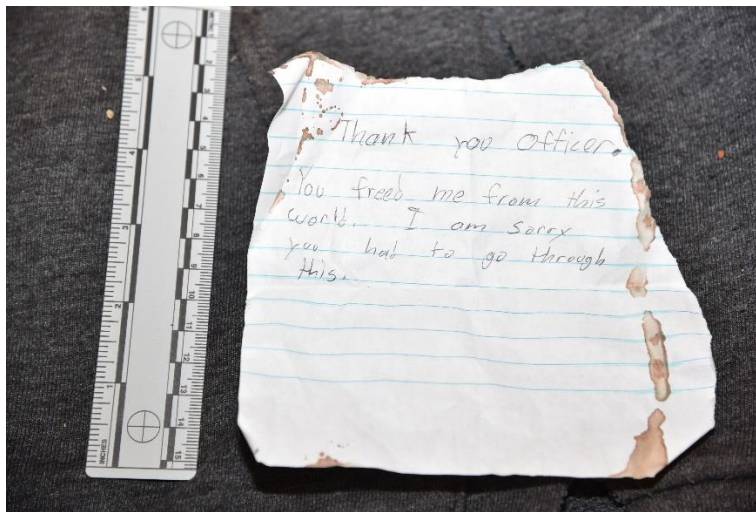
Physical Evidence

The shooting occurred on the east sidewalk adjacent to the southwest corner of Ascot Street Elementary School.¹³ Ascot Avenue is a north/south roadway, with a single lane of travel in each direction, and parking along the east and west curbs.

At the time of the shooting, Perez was wearing a dark gray zippered hooded sweatshirt, a black T-shirt over a white tank top, black jeans, and black sneakers. A torn piece of white notebook paper was recovered from the left pocket of Perez's sweatshirt. Handwritten on one side of the paper were the words, "Thank you Officer. You freed me from this world. I am sorry you had to go through this."



Note in the Front Left Pocket of Perez's Sweatshirt



Text of Perez's "Thank You" Note

Three .45 caliber casings, and a bullet jacket fragment were recovered from the east sidewalk of Ascot Avenue. Criminalist Andrea Woiwode subsequently determined that the three discharged .45 auto caliber cases, were all fired from Chessum's service weapon.

A black handgun was also recovered from the east sidewalk of Ascot Avenue. A subsequent examination of the object revealed it was a black, plastic BB gun. There were no BB pellets inside

¹³ The school was not in session at the time of the incident.

the gun, and the orange safety tip of the gun had been painted black. The BB gun had an empty black plastic magazine in the magazine well.



Perez's BB Gun with its Orange Safety Tip Painted Black



Perez's BB Gun with its Magazine Removed

Two cellular telephones and a mobile internet device were also recovered from the scene.¹⁴

A post-incident examination of Chessum's service weapon revealed that Chessum's service weapon was loaded with one round in the chamber and ten rounds in the magazine. This information was consistent with the BWV and physical evidence indicating Chessum fired a total of three rounds during the incident.

Video Documentation

Chessum's BWV footage is approximately three minutes and 40 seconds long.¹⁵ Chessum fires his service weapon approximately five seconds after exiting the patrol vehicle. Chessum's BWV shows Sanchez parking the patrol vehicle in a northeasterly direction, alongside parked vehicles on the east curb of Ascot Avenue. Chessum exits the patrol vehicle, closes the passenger door, and takes cover behind a white pick-up truck parked on the east curb. Chessum is heard stating, "Come

¹⁴ FID detectives subsequently determined that the phone number captured on Perez's 9-1-1 call matched that of one of the cell phone's recovered from the scene. Veronica P. also confirmed that the phone number used to place the 9-1-1 call, was in fact, Perez's cellular phone number.

¹⁵ Both Chessum and Sanchez were wearing Body-Worn Video (BWV) at the time of the incident; however, only Chessum's BWV captured the shooting. The officers' patrol vehicle was also equipped with a Digital In-Car Video System (DICVS), but the DICVS did not capture the shooting.

here” as Perez turns his body toward Chessum. Perez then removes his right hand from his sweatshirt pocket holding the black BB gun close to his waist, and extends his right arm aiming the gun directly at Chessum. Chessum immediately yells “Drop it” three times and fires three consecutive rounds at Perez.¹⁶

Postmortem Examination

On October 4, 2016, Deputy Medical Examiner Ogbonna Chinwah performed a postmortem examination of Perez’s remains.

The medical examiner attributed the cause of death to multiple gunshot wounds. Perez sustained two gunshot wounds, which included one gunshot wound to the chest which was fatal and one non-fatal gunshot wound to the right hip.

The toxicological examination was negative for alcohol or controlled substances.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense, or in the defense of others, if the person claiming the right of self-defense or the defense of others 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.

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.*

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Jackson* (1965) 233 Cal.App.2d 639.

In California, the evaluation of the reasonableness of a police officer’s use of deadly force employs 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.”)

A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer

¹⁶ The BWV and the ballistic evidence at the scene revealed Chessum fired from a distance of approximately 17 feet.

had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM 507, Penal Code §196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

An officer has “probable cause” in this context when he knows facts which would “persuade someone of reasonable caution that the other person is going to cause serious physical harm to another.” CALCRIM No. 507. When acting pursuant to Penal Code section 197, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle*, supra, at 1147. And he may only resort to deadly force when the resistance of the person being taken into custody “appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App.175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

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 Perez had a history of depression, and had previously contemplated suicide. The evidence further shows that on the day of this incident, Perez took deliberate steps to ensure his suicide by causing a police officer to shoot him. To that end, on October 2, 2016, Perez left his residence leaving behind a farewell note to his mother and brother, and with a “thank you” note in the front pocket of his sweatshirt to the officer who “freed me from this world.”

Perez placed a 9-1-1 call from his cell phone to report a man armed with a handgun, and described himself as that man. Perez was very specific that he could clearly see a gun in the man’s hand, and that the gun was a black Beretta. Perez reported the man was approximately 17 years old, wearing a gray sweater, and black pants, Perez’s clothing at the time. Perez also stated that the suspect was at 48th Street and Ascot Avenue, and walking towards a school, Perez’s actual location. To further cast suspicion unto himself, Perez approached Gerson Q. and told him he had just killed a man and showed Gerson Q. the gun to prove it. Further, when Chessum and Sanchez responded to the scene, Perez deliberately drew suspicion upon himself by running towards the school. The detailed description of himself to 9-1-1, the incriminating statements made to Gerson Q., and Perez’s flight from police appear to have been calculated to cause a confrontation with police.

When Chessum and Sanchez responded to Perez’s 9-1-1 call and attempted to make contact with Perez, Perez immediately assumed a shooting stance, and aimed his black BB gun directly at Chessum, causing Chessum to fire his service weapon in self-defense. Perez’s actions placed the officers in reasonable fear for their lives. Chessum’s use of deadly force, directly in response to Perez’s actions, was lawful and reasonable. Although Perez was not armed with a real gun, the evidence examined shows Perez’s actions were purposefully undertaken to make them believe that he was armed with a real gun and was about to shoot them.

Based on the foregoing, we conclude that Officer Ian Chessum acted reasonably and lawfully in self-defense when he used deadly force against Daniel Perez. We are therefore closing our file and will take no further action in this matter.