

**Officer Involved Shooting of Bryan Gallegos  
Long Beach Police Department**

**Detective Aldo Decarvalho, #5364**

**Detective Joseph Valenzuela, #5247**

**J.S.I.D. File #16-0515**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**November 1, 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 Bryan Gallegos  
J.S.I.D. File #16-0515  
L.B.P.D. File #16-007

DATE: November 1, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 7, 2016, non-fatal shooting of Bryan Gallegos by Long Beach Police Department (LBPD) Detectives Aldo Decarvalho and Joseph Valenzuela. It is the conclusion of this office that Detectives Decarvalho and Valenzuela acted reasonably and lawfully in self-defense and defense of others at the time they fired their weapons, and used lawful force in arresting Gallegos, an armed and violent fleeing felon.

The District Attorney's Command Center was notified of the shooting on October 7, 2016, at approximately 12:44 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, radio communications, and photographic evidence submitted to this office by LBPD Detective Sean Irving. No compelled statements were considered in this analysis.<sup>1</sup>

**FACTUAL ANALYSIS**

The Career Criminal Apprehension Team (CCAT) is an undercover unit that is utilized by LBPD detectives to conduct surveillances. [REDACTED]

On October 7, 2016, at approximately 11:15 a.m., CCAT detectives Decarvalho and Valenzuela were conducting surveillance in the area of Marine Avenue and R Street in the City of Wilmington, for the purpose of arresting Gallegos who was wanted as a suspect for a murder committed on September 4, 2016. Besides Decarvalho and Valenzuela, the CCAT for this operation was comprised of Detectives Thomas Brown, Jesse Valadez, Able Morales, Hector Cardiel, Russel Moss, Joel Camrin, Timothy Everts, Bobby Anguiano, and Theodore Covey, and Sergeant

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<sup>1</sup> Decarvalho and Valenzuela wrote voluntary detailed Incident Reports documenting their observations and actions relating to this incident. Their statements, detailed below, are derived from these reports.

Christopher Ferrari. Valenzuela and Decarvalho were riding in an unmarked [REDACTED], driven by Valenzuela, which was equipped with a siren, a solid red light and forward-facing blue lights. On this particular date, all of the CCAT detectives were dressed in plain clothes, and had clearly marked "POLICE" patches on the back and front of their police tactical vests, which they wore over their shirts.

The September 4, 2016 murder of victim Armando A. Jr., had been captured on video by surveillance cameras. The video, which had been viewed by the CCAT detectives, showed Gallegos driving his vehicle to the scene of the murder and initiating a brief confrontation with Armando A. Jr. before shooting him in the head.<sup>2</sup> CCAT detectives were also aware that the handgun which had been used in the murder, had not been recovered. Gallegos, a documented member of the Eastside Wilmas Gang with the moniker of "Lil Peanut," was considered to be armed and dangerous. CCAT detectives were provided with a photograph of Gallegos and his vehicle, as well as his arrest record, vehicle description and license plate number.<sup>3</sup>

CCAT detectives formulated a plan to detain Gallegos in his vehicle, while still parked, in order to prevent Gallegos from fleeing or initiating a high speed pursuit, and possibly endangering innocent civilians. Gallegos' vehicle was located unoccupied and parked facing south on Marine Avenue, at the intersection of Marine Avenue and R Street, with a parked vehicle behind it. Morales placed a spike near the right rear of Gallegos' vehicle in order to limit Gallegos' ability to flee.

Detectives conducted surveillance of the vehicle, and Gallegos was eventually seen walking onto R Street and entering his vehicle. Once Gallegos got into the driver's seat of his vehicle, Everts signaled the CCAT detectives to drive their vehicles in Gallegos' direction in order to effectuate the arrest. The plan was for Camrin to conduct a rear block with his vehicle, and Valenzuela and Decarvalho to conduct a front block with their vehicle, blocking Gallegos' vehicle from driving south. Both of these vehicles were equipped with a siren, and a solid red light and forward-facing flashing blue lights.<sup>4</sup> Because there was a parked vehicle behind Gallegos, Camrin blocked Gallegos by turning towards the west and angling towards Gallegos' driver's door. Meanwhile, Morales, driving a [REDACTED] truck, also blocked Gallegos from the front.

Gallegos accelerated forward at a high rate of speed, and struck the left front portion of Morales' truck. Meanwhile, Valenzuela drove up from R Street northbound behind Morales. Decarvalho and Valenzuela were in the direct path of Gallegos' oncoming vehicle. As he accelerated, Gallegos narrowly missed striking the driver's side of Valenzuela and Decarvalho's vehicle. Simultaneously, Everts was on foot approaching Gallegos' vehicle.

Decarvalho exited the right front seat, stood on the street behind the open passenger door of his vehicle, and looked directly north at Gallegos who was approximately 15 to 20 feet away. Decarvalho subsequently moved to the right front fender of the police vehicle, un-holstered his

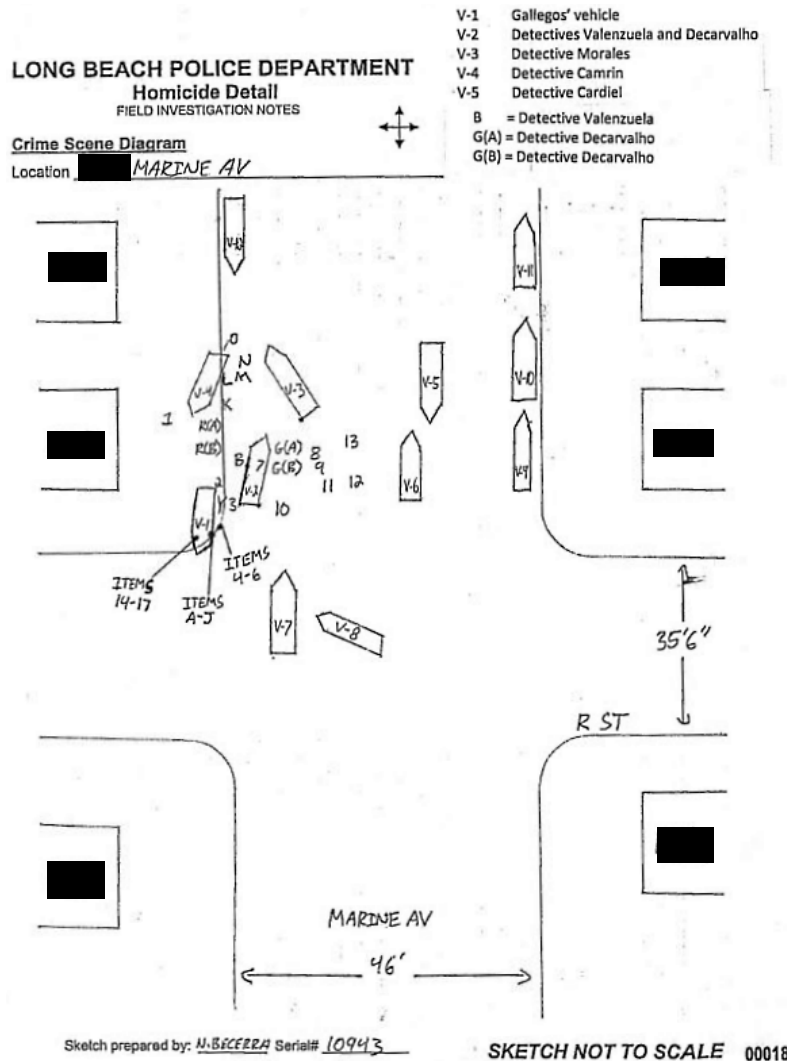
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<sup>2</sup> Gallegos' vehicle, driven by him to the scene of the murder and registered to him, was a gray Chevrolet Impala, license plate number 7SPJ792.

<sup>3</sup> Gallegos' arrest record, which was shared with CCAT detectives, included [REDACTED]

<sup>4</sup> The lights and siren were activated *after* the block, so as to prevent Gallegos from avoiding the block if he heard the lights or siren prior to the CCAT vehicles being in position.

service weapon and aimed it at Gallegos as he yelled, "Police!" and "Stop!"<sup>5</sup> As Gallegos continued to drive south toward Valenzuela, Decarvalho fired seven rounds at Gallegos. As he was standing outside his driver's door, about six feet from Gallegos, Valenzuela also fired once at Gallegos.<sup>6</sup> Valenzuela attempted to fire at Gallegos a second time, but when he pulled the trigger a second time, he felt no recoil on the gun and realized the slide on his service weapon was locked. Valenzuela tapped the magazine up, and racked the slide back in an attempt to force the slide forward, however, before he could fire another round, Valenzuela had to jump back in his vehicle in order to avoid possible cross fire.



### Detectives' and Gallegos' Positions at the Time Detectives Deployed Their Service Weapons

Gallegos' vehicle turned to the west, and bounced up the curb and sidewalk. To prevent Gallegos from driving around Morales' vehicle and escaping, Camrin struck the back of Gallegos' vehicle with his vehicle, and attempted to push Gallegos' vehicle into a telephone pole. Gallegos' vehicle then drove over a stop sign, and came to rest just in front of the telephone pole located at the northwest corner of R Street and Marine Avenue.

<sup>5</sup> In addition to his police tactical vest, Decarvalho wore an LBPDP badge attached to a black rope around his neck and over his vest. Decarvalho was armed with a Colt .45 caliber Gold Cup service weapon.

<sup>6</sup> Valenzuela was armed with a .45 caliber Colt Gold Cup service weapon.



Gallegos' Vehicle Resting Against the Light Pole

Detectives ordered Gallegos to put his hands up and exit the vehicle. Gallegos raised his right arm, but kept his left arm down at his side. Camrin, Cardiel, and Morales approached on the passenger side of Gallegos' vehicle to make the arrest. Gallegos' vehicle engine was still running, and Gallegos had his foot on the pedal and was accelerating. Morales reached in, put the vehicle in park, turned the key and shut the engine off.

When Morales asked Gallegos where the gun was, Gallegos motioned to his waistband and mumbled "pocket" and/or "here." Morales then reached in the vehicle, retrieved a black handgun from Gallegos' front waistband, and placed the handgun on the hood of Gallegos' vehicle.



Handgun Recovered from Gallegos' Waistband

Camrin and Cardiel then pulled Gallegos out of the vehicle and laid him on the street, and as they did so, a loaded black semiautomatic handgun magazine fell out onto the street and landed on the ground by Gallegos' driver's side door.



Handgun Magazine on Ground by Driver's Side Door of Gallegos' Vehicle

Detectives immediately began rendering medical aid to Gallegos, and paramedics arrived on scene shortly thereafter and transported Gallegos to Harbor UCLA Medical Center for treatment. Gallegos was listed in critical, but stable condition. [REDACTED]

Gallegos was subsequently charged with the murder of victim Armando A. Jr. in court case number NA105111. As a result of this incident, Gallegos was also charged, in the same complaint, with Assaulting a Peace Officer, in violation of P.C. 245(c), the victim being Morales.<sup>7</sup>

#### **Statement of Detective Aldo Decarvalho**

On October 7, 2016, Decarvalho and Valenzuela were teamed as CCAT partners in the ongoing murder investigation centered on the arrest of Gallegos. At approximately 11:15 a.m., Everts broadcast that Gallegos was inside his vehicle, and advised detectives to move in to make the arrest.

The plan was for Decarvalho and Valenzuela to approach from R Street, and block Gallegos' vehicle from driving south. As part of the plan, Decarvalho knew that Everts would be on foot near the northwest corner of R Street and Marine Avenue, to provide cover during the arrest.

As Valenzuela drove their vehicle on R Street, Morales drove his vehicle north on Marine Avenue, while Everts approached eastbound R Street on foot, nearing the southbound parking lane of Marine Avenue. When Valenzuela turned north along the parking lane of Marine Avenue to block Gallegos' vehicle path, Gallegos' vehicle was in a head-on path toward Valenzuela and Decarvalho's vehicle. Morales truck was now in front of Valenzuela and Decarvalho's vehicle, and off-set to Decarvalho's right. Morales positioned his truck in a northwesterly direction to prevent

<sup>7</sup> The case is currently set for pre-trial on November 28, 2018.

Gallegos from escaping. At this point, Gallegos accelerated forward and forcefully struck the left/front portion of Morales' truck. The force of the impact sent vehicle parts up in the air. It appeared Gallegos intentionally rammed his vehicle into Morales' vehicle in order to injure Morales and to escape capture. The forceful nature of the impact led Decarvalho to believe that Morales was injured, and was now the victim of an assault with a deadly weapon by Gallegos. In light of the recent murder committed by Gallegos and his actions to evade capture, Decarvalho believed Gallegos had no regard for public safety or law enforcement, and would do anything to escape.

In fear that Gallegos could injure and/or trap them in their vehicle, if Gallegos were to ram their vehicle head-on, Decarvalho exited the right front seat and stood on the street behind his open passenger door. Decarvalho looked directly north at Gallegos, and noticed that Gallegos was looking back at him from approximately 15 to 20 feet away. With his left hand gripping the top of the steering wheel, Gallegos glared at Decarvalho. It appeared Gallegos was pushing the steering wheel forward and bracing his back against the driver's seat.

Gallegos' right shoulder moved up and down, as his arm dangled toward his front waistband.<sup>8</sup> It appeared that Gallegos was retrieving a gun from his waistband. Decarvalho moved to the right front fender of the vehicle, un-holstered his service weapon from his vest, and aimed it at Gallegos as he yelled "Police!" and "Stop!" However, Gallegos continued to drive south toward Valenzuela while continuing to reach into his waistband. Decarvalho feared that Valenzuela would be unable to escape out the driver's side door, and would become trapped in his vehicle. Decarvalho stated, "I feared Gallegos was arming himself to shoot Detective Valenzuela and me, and ram the Impala into our dual-purpose vehicle, causing great bodily harm to Detective Valenzuela. I believed if Gallegos continued driving south in his current path he could easily run over Detective Everts and likely kill him. At this time, I believed there was no other reasonable option other than using deadly force to stop Gallegos... I began firing at Gallegos while sidestepping south to my left to stop his imminent threat from shooting Detective Valenzuela and me, and ramming Detective Valenzuela. I fired seven to eight rounds at Gallegos."<sup>9</sup>

### **Statement of Detective Joseph Valenzuela**

On October 7, 2016, Valenzuela and Decarvalho were teamed as CCAT partners in the ongoing murder investigation centered on the arrest of Gallegos. Valenzuela and Decarvalho set up surveillance in the area of Marine Avenue and R Street. The plan was that Valenzuela and Decarvalho would block the front of Gallegos' vehicle with their vehicle. Morales informed Valenzuela that two spikes had been placed under Gallegos' vehicle to deflate the tires. After Valenzuela blocked Gallegos' vehicle from the front, the plan was for other detectives to then come in at different angles and surround Gallegos' vehicle, preventing his escape.

At approximately 11:15 a.m., Everts confirmed that Gallegos had entered his vehicle, at which point Valenzuela drove northbound on Marine Avenue, from R Street. Gallegos, seated in the driver's

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<sup>8</sup> Decarvalho was unable to see what was on the area below Gallegos' right elbow at this time.

<sup>9</sup> Decarvalho stated during a public safety statement immediately following the shooting that he fired eight rounds at Gallegos from his service weapon. However, during a subsequent service weapon inspection with Detective Robert Gonzalez, Decarvalho stated he fired seven rounds at Gallegos. Decarvalho's service weapon had one round in the chamber and one round in the magazine. Seven cartridge cases recovered from the scene were later examined and matched to Decarvalho's service weapon, which was consistent with Decarvalho actually firing seven rounds from his service weapon.

seat of his vehicle, looked directly at Valenzuela and Decarvalho. Valenzuela activated the flashing blue and solid red police lights, and accelerated towards the front of Gallegos' vehicle.

Morales' vehicle was off to Valenzuela's right side, and headed towards the driver's side of Gallegos' vehicle. Valenzuela stopped his vehicle approximately five feet from Gallegos' vehicle. Gallegos' vehicle then accelerated forward toward Morales' vehicle, and intentionally struck the front of Morales' truck. Gallegos was now not only wanted for murder, but for an assault with a deadly weapon for intentionally striking Morales' with his vehicle.

Gallegos' vehicle again accelerated, screeching its tires, drove southwest onto the sidewalk, and narrowly missed striking Valenzuela's driver's side door. Gallegos was driving with no regard for the safety of anyone, and was trying to evade capture. Still seated in the driver's seat of his vehicle, Valenzuela heard gunshots and another loud crash. Valenzuela did not know if Gallegos or other detectives were firing. Valenzuela exited his vehicle while holding his service weapon, and saw Everts running towards Gallegos' vehicle. Gallegos' vehicle continued to drive forward after impacting another object. The engine was revving as Gallegos' vehicle was still attempting to go forward.

Everts was in the direct path of Gallegos' vehicle, as he ran north across R Street towards Gallegos' vehicle. Everts was approximately 30 feet from Gallegos' vehicle, and still advancing toward Gallegos' vehicle as Valenzuela stood outside his driver's side door, approximately six feet from Gallegos' vehicle, and aimed his service weapon at Gallegos. In fear that Gallegos was still trying to evade capture and posed an immediate threat to Everts and the other approaching detectives, Valenzuela fired his service weapon at Gallegos.<sup>10</sup>

Valenzuela pulled the trigger on his service weapon a second time, but the slide locked back. Everts yelled to watch for cross fire, and Valenzuela jumped back into his vehicle, and crawled out the front passenger door.

### **Statement of Detective Abel Morales**

On October 7, 2016, Morales was on duty as a CCAT detective in the ongoing murder investigation centered on arresting Gallegos. At approximately 11:15 a.m., Gallegos walked across Marine Avenue towards his vehicle, which was parked on the northwest corner of Marine Avenue and R Street. Once Gallegos entered his vehicle, the order was given to block Gallegos' vehicle to prevent him from driving away. As Morales drove toward Gallegos' vehicle, Gallegos looked at Morales, looked right, and accelerated his vehicle striking Morales' vehicle.<sup>11</sup> Gallegos then continued to accelerate his vehicle, ran up the curb, and knocked down a metal stop sign.

Morales exited his vehicle, and immediately heard numerous gunshots behind him. Morales took cover behind his vehicle, and saw that Gallegos' car was still moving forward. Morales looked south, and saw Everts in the middle of the street, aiming an AR-15 at Gallegos.

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<sup>10</sup> A subsequent examination of Valenzuela's service weapon by Detective Robert Gonzalez revealed Valenzuela's service weapon had one round in the chamber, and seven rounds in the magazine.

<sup>11</sup> Although Morales had intended to place his vehicle directly in front of Gallegos to block his path, Morales was unable to do so due to a civilian vehicle driving southbound on Marine Avenue, next to Gallegos' vehicle, at the time the arrest signal was given. Because Morales had to wait until the civilian vehicle drove by, Morales ended up blocking Gallegos' vehicle at an angle, rather than from the front.

Gallegos' vehicle was now on top of the sidewalk facing southbound on Marine Avenue. Detectives ordered Gallegos to put his hands up, but Gallegos was not complying with the orders. It appeared that Gallegos was stalling for time to reach for a weapon. Cardiel, Camrin, and Morales opened the passenger's side door, and saw that Gallegos had sustained several gunshot wounds. Morales asked Gallegos where the gun was, and Gallegos motioned with his eyes towards his waistband. Morales reached inside and turned Gallegos' car off by removing the key from the ignition.<sup>12</sup> Morales then reached into Gallegos' waistband and removed a black semiautomatic handgun, which he placed on the hood of Gallegos' vehicle.<sup>13</sup>

### **Statement of Detective Timothy Everts**

On October 7, 2016, Everts was on duty as a CCAT detective in the ongoing murder investigation centered on arresting Gallegos. At approximately 11:17 a.m., Gallegos entered his vehicle, which was parked on the west side of Marine Avenue and north of R Street. Everts broadcast that Gallegos entered his vehicle, and advised the rest of the CCAT to come in and arrest Gallegos.

As the undercover vehicles pulled away from the curb, Gallegos focused his attention to the south as if he was preparing to flee.

Everts waited until Valenzuela drove past him on the north of Marine Avenue, before exiting his vehicle. Everts was wearing a clearly marked police tactical vest and was armed with a department issued AR-15. As Everts exited his vehicle, one of the CCAT vehicles pulled to a stop at an angle facing Gallegos' vehicle, as Morales drove his vehicle toward the bumper of Gallegos' vehicle. Gallegos accelerated toward Morales' vehicle, and struck it on the front bumper. Gallegos then turned his steering wheel to his right, and accelerated in order to escape the detectives' attempt to box him in. Gallegos then jumped the curb and struck a stop sign.

Gallegos' front bumper was next to a power pole, but it appeared Gallegos was still "driving right at" Everts. Everts moved to the west to put the pole as a barrier between Gallegos' vehicle and himself, in order to avoid being struck by Gallegos' vehicle. Simultaneously, Decarvalho stood at the front of his vehicle in a two-handed shooting stance and fired five or six rounds at Gallegos. The rounds struck Gallegos, causing Gallegos to slump over in his seat and stopping his vehicle from moving forward.

Everts moved to Moss' vehicle, but continued to guard Gallegos as he ordered him to show his hands. Eventually, Camrin, Morales and Cardiel approached Gallegos, and Morales retrieved a handgun from Gallegos. As detectives pulled Gallegos out of his vehicle, a black gun magazine fell onto the ground. Everts retrieved his trauma bag and assisted in rendering medical assistance to Gallegos, pending the arrival of paramedics to the scene.

### **Physical Evidence**

Gallegos' vehicle, a gray Chevrolet Impala, was stopped on the northwest corner of Marine Avenue and R Street. The stop sign located at the corner had been knocked over. The Impala's front passenger tire, rear passenger tire, and rear driver's side tire were on the sidewalk. The front driver's side tire was on the roadway, and the rear driver's side tire and front passenger tire were

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<sup>12</sup> Morales later placed Gallegos' keys on the hood of Gallegos' vehicle.

<sup>13</sup> Morales also recovered a cell phone from Gallegos' lap, and also placed it on the hood of Gallegos' vehicle.

flat. The front doors and rear passenger side door of the vehicle were open. The front passenger side of the vehicle was partially against the power pole, and there was moderate damage on the front driver's side of the vehicle, as well as some collision damage to the rear bumper area of the vehicle.



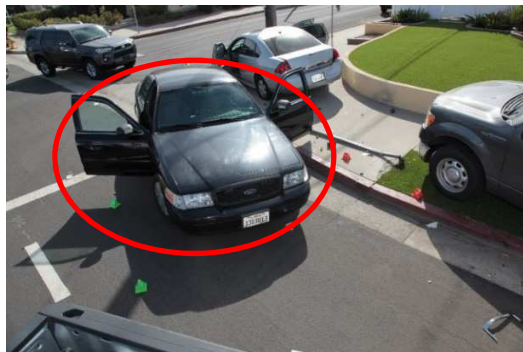
Stop Sign - Knocked Over on Ground

Eight gunshot holes were on the driver's side of the vehicle; four in the driver's window, three on the driver's door, and one in the driver's side passenger window. The vehicle was still in drive, and the key was in the ignition, but the engine was not running.



Bullet Holes on the Driver's Side of Gallegos' Vehicle

Valenzuela and Decarvalho's vehicle, an [REDACTED], was parked facing north in the southbound lane of Marine Avenue, and was parked east and slightly north of Gallegos' vehicle.



Final Position of Decarvalho and Valenzuela's Vehicle

Morales' vehicle, a [REDACTED] truck, was parked northeast of Gallegos' vehicle and facing northwest in the southbound lane of Marine Avenue. Morales' truck had moderate front driver's side damage. Lastly, a [REDACTED] truck, with minor front-end damage, was parked facing south, behind Gallegos' vehicle. The front passenger tire, front driver's side tire, and rear passenger tire of the vehicle were all on the sidewalk of Marine Avenue.



Vehicles Surrounding Gallegos' Vehicle Post-Shooting



Morales' Vehicle [REDACTED] with Front Bumper Collision Damage

A loaded Sig Sauer Sig Pro handgun magazine was located on the sidewalk, on the driver's side of Gallegos' vehicle. A subsequent examination of the magazine revealed it was loaded with ten .40 caliber cartridges.



Close-up View of Loaded Handgun Magazine

An expended bullet was located just south of the magazine, and three expended bullets were subsequently recovered from Gallegos' vehicle. Criminalist Alexandra LaMay conducted an examination of the expended bullets, and determined that three of the bullets originated from Decarvalho's service weapon, and one bullet originated from Valenzuela's service weapon.

A 9mm luger cartridge case was located on the sidewalk, near the rear tire on the driver's side of Gallegos' vehicle.<sup>14</sup> A black T-shirt, cell phone, keys, and a black .40 caliber Sig Sauer handgun were recovered from the hood of Gallegos' vehicle. A subsequent examination of the handgun revealed that the chamber was empty, but an attached Sig Pro magazine was loaded with ten .40 caliber cartridges.

A total of eight Winchester .45 caliber cartridges were recovered from the scene. One cartridge case was located on the passenger floorboard of Decarvalho and Valenzuela's vehicle, six cartridge cases were located on the roadway east of their vehicle, and one additional cartridge case was located on the sidewalk in front of [REDACTED] Marine Avenue. LaMay conducted an examination of the cartridges, and determined seven of the cartridges originated from Decarvalho's service weapon, and one cartridge originated from Valenzuela's service weapon.

## LEGAL ANALYSIS

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. Penal Code §835a. California law permits the use of deadly force by police officers when necessary to effect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. *People v. Ceballos* (1974) 12 Cal.3d 470, 477-484; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; *Tennessee v. Garner* (1985) 105 S.Ct. 1694. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. Murder is an inherently dangerous, forcible and atrocious felony. *Ceballos*, supra, 12 Cal.3d at 479.

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

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<sup>14</sup> Investigators were unable to determine the origin of the 9mm cartridge case. It is unknown if this cartridge case came from inside Gallegos' vehicle, or if it was already on the street prior to the incident.

Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 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.*

When acting pursuant to Penal Code §197, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 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.

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. *Mehserle* at 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.")

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.

If officers are justified in firing at a suspect in order to end a severe threat to public safety, they need not stop shooting until the threat has ended. *Plumhoff v. Rickard* (2014) 572 U.S. 765.

## CONCLUSION

The evidence examined in this investigation shows that on September 4, 2016, Gallegos murdered Armando A. Jr. The murder, which was caught on video by surveillance cameras at the location, showed Gallegos, a documented gang member, shoot Armando A. Jr. in the head, and flee in a Chevrolet Impala.

The evidence further shows that on October 7, 2016, CCAT detectives formulated a plan to arrest Gallegos for the murder of Armando A. Jr. However, when Valenzuela, Decarvalho and the other CCAT detectives attempted to box Gallegos in with their vehicles in order to effectuate the arrest, Gallegos violently resisted by accelerating forward into Morales' vehicle, resulting in a collision that caused significant damage to Morales' vehicle. Although Morales was uninjured, he was nonetheless the victim of an assault perpetrated by Gallegos with his vehicle.

Gallegos displayed a reckless disregard for the safety of the detectives, as he continued advancing his vehicle toward Valenzuela and Decarvalho's vehicle, almost striking their driver's side door. Meanwhile, Everts approached on foot to provide cover for the other detectives. Everts had to rapidly step aside to avoid being struck by Gallegos' vehicle.

Although the CCAT detectives involved were dressed in plain clothes, they wore police tactical vests that clearly identified them as law enforcement officers. Furthermore, several of the CCAT vehicles displayed sirens and flashing lights, which Gallegos failed to yield to. It is thus reasonable to conclude that Gallegos recognized the detectives as law enforcement officers, and nonetheless, decided to forcefully evade arrest.

In light of the recent murder committed by Gallegos with a firearm which had not yet been recovered, combined with Gallegos' furtive movements reaching into his waistband, Decarvalho reasonably feared that Gallegos was about to arm himself with a gun and shoot at the officers in order to evade capture. It was also reasonable in view of the same, for Valenzuela to conclude that Gallegos posed an imminent threat to Everts, warranting the use of lethal force to stop his ongoing threat.

Upon arrest, Gallegos was in fact found to be armed with a loaded handgun in his waistband, and with a second fully loaded magazine at his disposal, confirming Decarvalho's belief. In sum, the evidence is clear that Gallegos not only posed an immediate threat to the detectives attempting to arrest him for the murder he had committed, but posed an ongoing threat to the public.

Based on the foregoing, we conclude that Detectives Aldo Decarvalho and Joseph Valenzuela were placed in reasonable fear of imminent danger of death or great bodily injury and acted lawfully in self-defense and defense of others when they discharged their service weapons. They were also justified in their use of deadly force in order to arrest and stop Brian Gallegos, a violent and armed fleeing felon. We are therefore closing our file and will take no further action in this matter.