

**Officer Involved Shooting of Omar Gonzalez**

**Los Angeles Police Department**

**Officer Eden Medina, #40914**

**J.S.I.D. File #16-0382**



**JACKIE LACEY**

**District Attorney**

**JUSTICE SYSTEM INTEGRITY DIVISION**

**December 18, 2018**

## MEMORANDUM

TO:                   COMMANDER ALAN HAMILTON  
Los Angeles Police Department  
Force Investigation Division  
100 West First Street, Suite 431  
Los Angeles, California 90012

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

RE:                   Officer Involved Shooting of Omar Gonzalez  
J.S.I.D. File #16-0382  
F.I.D. File #F045-16

DATE:               December 18, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 28, 2016, fatal shooting of Omar Gonzalez by Los Angeles Police Department (LAPD) Officer Eden Medina. We have concluded that Officer Medina acted lawfully in self-defense and defense of another.

The District Attorney's Command Center was notified of this shooting on July 28, 2016, at approximately 8:17 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by LAPD, Force Investigation Division (FID) Detectives Robert Solorza and Ron Lee. The reports include investigative reports, forensic science firearms analysis reports, photographic evidence, video evidence and witness statements. The compelled statement of Officer Medina was considered in this analysis.

### **FACTUAL ANALYSIS**

On July 28, 2016, at approximately 7:04 p.m., LAPD Hollenbeck Division Gang Enforcement Detail (GED) Officers Danielle Lopez and Alejandro Feria, and Los Angeles County Deputy Probation Officer (DPO) Sonia Johnson were in a marked, black and white patrol car.<sup>1</sup> Lopez was the driver,

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<sup>1</sup> The patrol car was a hybrid vehicle equipped with a forward facing red light and siren. The officers were working in the area of Soto Street and City View Avenue due to the high volume of gang crime activity and drive-by shootings that had recently taken place. They had been advised that stolen vehicles were being used in the drive-by shootings, and they were specifically targeting the Crazy Ass Mexicans (KAM) gang to prevent retaliatory shootings. Lopez had been assigned to the gang detail for two weeks, and Feria had been assigned there for two and a half years. Johnson had worked with Feria for approximately one year. Several Metropolitan Division Officers, including Bryan Damesworth and Nikole Bostillo, were providing assistance to Hollenbeck Division specifically to address the gang activity.

Feria was the front passenger, and Johnson sat behind Lopez.<sup>2</sup> As Lopez, Feria and Johnson traveled eastbound on City View Avenue near Breed Street, they observed a white Nissan Altima, turn eastbound onto City View Avenue from an alley between Soto Street and Breed Street. Annel M█████ was the driver, and Omar Gonzalez was the passenger.<sup>3</sup> M█████ had not activated the Altima's turn signal, and Gonzalez was not wearing a seatbelt. M█████ did not stop or slow down as she made the turn, which caught Feria's attention. The alley from which the Altima turned was known to Feria as a "State Street" gang member hideout, as well as an area known to have stolen vehicles.<sup>4</sup>

As M█████ came to a stop at the intersection of City View Avenue and Soto Street, Gonzalez slowly put on his seatbelt, and M█████ belatedly activated her turn signal. Feria ran the Altima's license plate number in the patrol car's Mobile Digital Computer (MDC) to determine whether it was a stolen vehicle. It did not return as a reported stolen vehicle. M█████ turned northbound onto Soto Street, and Feria directed Lopez to conduct a vehicle stop for the failure to activate a turn signal and Gonzalez' initial failure to wear a seatbelt. Lopez drove behind the Altima, and activated the patrol car's red light. At 7:05 p.m., Feria broadcast that they would be conducting a traffic stop on the Altima.<sup>5</sup> Officers Eden Medina and his partner, Alejandro Higareda, who were finishing a traffic stop nearby at Barlow Street and Soto Street, heard Feria's broadcast about the Altima. Higareda could see Lopez and Feria's patrol car traveling northbound on Soto Street, and Medina made a U-turn to pull in behind the patrol car.<sup>6</sup>

M█████ activated the Altima's right turn signal, and drove towards the east curb of Soto Street, north of Fairmount Street, as if she was going to stop the vehicle. She then pulled away from the curb and drove in the number two lane of Soto Street. M█████ continued driving, pulled into a gas station, then exited the station, driving eastbound. Lopez activated the siren on the patrol car, however M█████ did not yield.<sup>7</sup> Feria updated the broadcast as to M█████' direction of travel and requested additional units to respond, while M█████ continued driving at relatively low speeds. Metropolitan Division Officers Bryan Damesworth and his partner, Nikole Bostillo, heard Feria's request and responded as the third unit.<sup>8</sup>

Once M█████ failed to stop at several posted stop signs, Feria believed the incident would escalate into a full-blown vehicle pursuit.<sup>9</sup> Lopez, Feria and Johnson could see through the un-tinted rear

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<sup>2</sup> Feria and Lopez were given an opportunity to review their digital in-car video prior to making statements to detectives during the investigation of the officer-involved shooting (OIS).

<sup>3</sup> Gonzalez weighed 200 pounds, and was five-feet, ten inches tall.

<sup>4</sup> The alley was on the border between the State Street and KAM gangs, which had a history of feuding and shooting at each other.

<sup>5</sup> At this date and time, it was daylight, with dry and clear skies.

<sup>6</sup> Medina, the driver, and Higareda, the passenger, were in full uniform, driving in a marked, black and white patrol vehicle. The officers broadcast that they would be the secondary unit for the traffic stop.

<sup>7</sup> The patrol car's siren did not sound in a continuous pattern. Lopez repeatedly activated the siren using the chirp or burst function during the pursuit to get M█████' attention. Once the red light was activated, it remained on the entire time.

<sup>8</sup> Damesworth and Bostillo were in full uniform.

<sup>9</sup> Feria believed the situation would eventually turn into a pursuit because the Altima, which was an older 1998 model year, had a high propensity for being stolen in the State Street Gang area. The area had numerous unreported stolen vehicles, and the officers were aware that gang members used female drivers while committing drive-by shootings, since the male passenger could simply conceal himself after the shooting, and a female driver would be less conspicuous. Lopez also believed the vehicle model was regularly unreported as stolen, however she mistakenly believed it was a Nissan Sentra.

windshield into the Altima, and saw Gonzalez' head and upper torso move forward and down several times. It appeared to the officers that Gonzalez was bending forward or ducking down towards the front of his seat. Gonzalez' head and upper body would disappear, which led the officers to believe he was reaching under his seat to retrieve or conceal a handgun. He also opened and closed his door approximately six times while bending forward, causing the officers to believe he was going to jump out of the car. Feria believed Gonzalez might jump out, turn and shoot at the officers, so he advised Lopez not to get too close to the Altima.<sup>10</sup> Feria described Gonzalez' movement and his opening of the car door in the broadcasts to the other units. Damesworth and Bostillo prepared themselves to apprehend Gonzalez if he exited during the pursuit, because the officers in the patrol cars ahead of them would be focused on staying with the Altima.

M█████ began driving through a residential area at speeds of approximately 35 to 60 miles per hour. Along the route, pedestrians ran to avoid getting struck by M█████' car, and M█████ would slow down when Gonzalez opened the passenger door.<sup>11</sup> M█████ drove in circles through the neighborhood before eventually driving into a cul-de-sac at the end of Atwood Place.



Inclined driveway at █████ Atwood Place



Inclined driveway at █████ Atwood Place

Prior to the Altima coming to a complete stop, Gonzalez exited from the passenger side, stumbling to the ground. The officers stopped their vehicles behind the Altima, which had stopped at the entrance to an inclined driveway. Gonzalez looked at the officers, got up immediately, and ran up the inclined driveway towards Nancy C.A., and her son Joshua A., who were standing in the driveway at █████ Atwood Place.<sup>12</sup> Nancy C.A. yelled, "You're not going to fucking come here! Get the fuck out of here!" Fearing that Gonzalez was armed and was going to take the individuals hostage, or shoot them, Higareda exited his patrol car, un-holstered his service weapon, and ran up the driveway after Gonzalez. Damesworth, Bostillo and Medina quickly followed. Simultaneously, Feria, Lopez and Johnson detained M█████, who remained seated in the Altima.<sup>13</sup>

Gonzalez ran full-speed towards Nancy C.A. and Joshua A., and Nancy C.A. grabbed and pushed him. Joshua A. threw a brick, missing Gonzalez. John A. and Michael B. arrived, and the group

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<sup>10</sup> Feria un-holstered his service weapon a couple of times when Gonzalez opened the door, and Lopez believed Gonzalez was going to jump out of the Altima or throw something out the window. At 7:08 p.m., Feria broadcast, "[m]ale passenger is gonna try to jump off."

<sup>11</sup> Feria estimated that M█████ failed to stop at 10-15 stop signs during the pursuit. The lights and sirens were activated on Medina and Higareda's patrol car during the pursuit.

<sup>12</sup> They had been watching the pursuit as it wound through the neighborhood, and waited in the driveway because they believed M█████ was going to eventually drive into the dead end of the cul-de-sac and up their driveway.

<sup>13</sup> It was later determined that the Altima was registered to M█████' sister.

struggled with Gonzalez. Michael B. pulled the back of Gonzalez' shirt and also pulled his right arm backward. During the confrontation, Gonzalez repeatedly reached towards his waistband area as if he was trying to remove something, causing them to believe he was armed with a weapon. Joshua A. punched Gonzalez in the face just as Higareda approached.<sup>14</sup> Higareda told the group to back away as he grabbed Gonzalez, causing them to fall onto an embankment bordering the west side of the driveway.<sup>15</sup> Gonzalez landed on his stomach, with his left arm tucked under his body, and Higareda landed on Gonzalez' back. Simultaneously, Medina, Damesworth and Bostillo arrived to help take Gonzalez into custody.<sup>16</sup> Gonzalez resisted and struggled against the officers, by turning his shoulders and upper body around, moving his right arm back and forth, and initially keeping his left arm and hand tucked beneath his body. He also tried to push himself up from the ground.

Higareda continued to try to hold Gonzalez down, and could not see his left hand. Higareda warned the officers and yelled, "Hey, I can't see his left hand! I can't see his left hand!" Damesworth was able to grab his right arm, but was unable to move it behind his back, while Medina attempted to pull his left arm and hand from underneath his body. Officers yelled, "Put your hands behind your back," and, "Stop, stop fighting. Stop resisting." Gonzalez ignored their commands. Still facing downward, and struggling against the officers, Gonzalez moved his left hand up near his shoulder. Medina [REDACTED] yelled, "Gun! Gun! Gun!" Simultaneously, Damesworth saw that Gonzalez was holding a small caliber semi-automatic handgun, and appeared to manipulate the handgun as if he was trying to grip the weapon. Damesworth yelled, "He's got a gun!" [REDACTED] Medina [REDACTED] fired two rounds at Gonzalez.<sup>17</sup>

Gonzalez slid off the embankment, and rolled a short distance onto his back on the driveway, as the officers quickly backed away. Unsure of who fired the rounds, Damesworth and Bostillo, who had been trying to control Gonzalez' legs, immediately un-holstered their service weapons. Gonzalez was ordered to roll over, but he did not comply. Damesworth grabbed his right arm, and rolled him over, causing his left arm to be tucked underneath his body, and his left hand to be near his waistband area. Damesworth attempted to place Gonzalez' right arm behind his back, but Gonzalez kept his arm stiff and refused to comply. Damesworth yelled for the officers to secure his left arm, and he and Bostillo eventually handcuffed him and took him into custody.<sup>18</sup>

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<sup>14</sup> Higareda holstered his weapon prior to approaching Gonzalez and the residents.

<sup>15</sup> The force of the struggle also caused Joshua A. and Nancy C.A. to fall to the ground.

<sup>16</sup> As will be described below, Damesworth told investigators that he also separated Gonzalez from the citizens and took Gonzalez to the ground with Higareda. Higareda was focused on Gonzalez, and was not sure whether he alone had taken Gonzalez to the ground, or if other officers assisted.

<sup>17</sup> A post-incident examination revealed that Medina's departmentally issued 9 millimeter Glock, Model 17 firearm was loaded with one round in the chamber and 14 rounds in the magazine. Two expended cartridges were recovered from the driveway and embankment, and were determined to have been fired from Medina's service weapon; this is consistent with Medina having fired two rounds during the officer-involved shooting.

<sup>18</sup> Atwood Place is a north/south cul-de-sac street consisting of residential houses. The OIS took place on an approximately one foot high, elevated concrete embankment, on the west side of the inclined driveway of [REDACTED] Atwood Place. There is a chain-link fence on top of the embankment. The embankment and fence separate the driveway from an open field to the west. Under the chain-link fence is a small water channel carved into the embankment, that runs the length of the fence.



Location of the OIS and location where Gonzalez' handgun was recovered

A Raven Model MP 25, .25 caliber semiautomatic handgun with an obliterated serial number was recovered on the opposite side of the chain-link fence, adjacent to the concrete embankment. The handgun was loaded with one cartridge in the chamber and six in the magazine. The handgun was later determined to be functional.<sup>19</sup>



Gonzalez' handgun, magazine and ammunition

<sup>19</sup> There was an insufficient amount of DNA obtained from the magazine of the handgun for an analysis to be conducted, and the partial male DNA typing result obtained was inconclusive, and not suitable for comparison. The handgun and magazine were examined for latent prints. Latent prints were not developed on the items.

Los Angeles Fire Department Paramedics arrived at approximately 7:24 p.m., began treating Gonzalez, and transported him to Los Angeles County USC Medical Center. Gonzalez failed to respond to treatment at the hospital and was pronounced dead at 8:04 p.m.

On August 6, 2016, Deputy Medical Examiner Vadims Poukens performed a postmortem examination of his remains and determined that he suffered multiple gunshot wounds. The wounds were located in his left upper back and left mid back. The path of the gunshot wound to the upper left back was back to front, right to left, and slightly upward. The path of the gunshot to the mid back was back to front, left to right, and slightly upward.

**Law Enforcement Witnesses**

**Compelled Statement of Officer Eden Medina**

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. The LAPD orders officers who are involved in an officer involved shooting incident to submit to questioning concerning the performance of their official duties, and ordered Medina to do so in the present case.

Medina, 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 LAPD ordered him to answer questions which might expose him to criminal liability, the LAPD compelled him to participate in the interview. The effect of this legal compulsion is that Medina's statement cannot be used against him in a criminal proceeding, nor can any material derived from the compelled interview be used against him. *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal.4<sup>th</sup> 704, 715. Further, because the compelled statement is part of Medina'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.

[REDACTED]

[REDACTED]

[REDACTED]







reasons. Higareda grabbed onto Gonzalez, and they fell to the ground.<sup>31</sup> Gonzalez fell onto his stomach, slightly leaning towards the left, and Higareda fell on his back. Due to the incline of the driveway, Gonzalez' body was higher than Higareda's.<sup>32</sup> Gonzalez tried to push himself up to his knees, and Higareda attempted to hold him down. Out of the corner of his eye, Higareda saw additional officers approaching as they fell to the ground. Higareda could see Gonzalez' right hand, but could not see his left hand, which was underneath his body. Higareda told Gonzalez to show his hands, and then yelled, "Hey, I can't see his left hand! I can't see his left hand!"

Medina, who had approached on the left side, yelled, "He has a gun! He has a gun!" Gonzalez continued to try and push himself up to his knees, as another officer attempted to control him from the right side. Higareda feared that if Gonzalez made it to a standing position, he would shoot and kill Higareda and his partner officers, so Higareda continued to try and hold Gonzalez on the ground to control him. Higareda felt Medina "peeling me back," and simultaneously heard two shots fired. Medina yelled, "Watch out, watch out!" and the officers backed away. Higareda saw Medina with his service weapon pointed at Gonzalez' left side. Higareda could still not see Gonzalez' left hand, and he was still fighting with the officers. Gonzalez then fell over, and Higareda stepped back. Medina continued to hold Gonzalez at gunpoint. Medina and another officer pointed and yelled, "Oh, the gun's right there!" Gonzalez rolled to the side, and Higareda saw a small caliber, semi-automatic handgun within arm's reach of Gonzalez, approximately two feet away.

Gonzalez refused to comply with the officers' orders to roll over and show his hands. One of the officers said, "He's still not giving me his hand. He might have another gun. Just be careful, he's still not giving me his hands." Since Gonzalez was still failing to comply with orders, and the handgun was still not secure, Higareda grabbed it because he was concerned Gonzalez could reacquire it and use it against the officers or the citizens. He secured it while other officers eventually took Gonzalez into custody. Higareda directed the citizens to step back, and then stored Gonzalez handgun in the trunk of his car.

### **Statement of Bryan Damesworth**

Damesworth and his partner, Bostillo, were assigned to LAPD Metropolitan Division, and were assisting the Hollenbeck Division in investigating ongoing shootings between local area rival gangs. Damesworth was the driver and Bostillo was the passenger in an unmarked, patrol vehicle. They heard Feria's initial broadcast of the attempted traffic stop on the Altima, and the subsequent broadcast of the Altima failing to stop. Damesworth and Bostillo were nearby, and responded to assist. Damesworth began driving behind Medina and Higareda's patrol car, and they followed the Altima down several streets. They drove through several neighborhoods, and a pursuit ensued. The Altima's passenger door opened several times, and Feria broadcast that Gonzalez kept reaching under the front seat. Damesworth and Bostillo believed that Gonzalez was either arming himself or attempting to conceal a weapon. Eventually, M [REDACTED] drove into a cul-de-sac, and the vehicle pursuit ended.

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<sup>31</sup> Higareda believed he was the only officer who took Gonzalez to the ground, but was unsure whether other officers participated in the take-down.

<sup>32</sup> Gonzalez' head faced in a northwest direction.

Gonzalez opened the passenger door, exited the Altima, and ran up the inclined driveway towards approximately four citizens standing in the driveway.<sup>33</sup> Higareda ran after Gonzalez, and believing that he was armed, Damesworth also ran up the driveway towards Gonzalez. Gonzalez was struggling with the citizens, who were angry at him. One of the citizens held onto Gonzalez, and another held a stick or garden tool as a weapon. Damesworth yelled for the citizens to get back, as he and Higareda forcefully pushed them back. Simultaneously, Damesworth and Higareda grabbed Gonzalez, causing Gonzalez and the officers to fall to the ground onto an embankment.

Gonzalez, whose head was facing down the incline towards the cul-de-sac, was on his stomach. Medina was on Gonzalez' left side, Damesworth was on his right side, Bostillo was behind Damesworth trying to control Gonzalez' legs, and Higareda was on Gonzalez' back. Damesworth held Gonzalez' right arm, which was out to his side, and attempted to bring his right hand behind his back to take him into custody. However, Gonzalez moved his right arm back and forth, preventing Damesworth from bringing it behind his back. Medina was trying to control Gonzalez' left arm. Gonzalez struggled against the officers by moving his shoulders and upper torso back and forth.<sup>34</sup> Damesworth then saw a small caliber semi-automatic handgun in Gonzalez' left hand, and immediately yelled, "Gun!" or "He's got a gun!"<sup>35</sup> Gonzalez' left arm was extended out and away from his body, and his left hand was near his shoulder. Gonzalez' palm was facing upward, and it appeared as if he was manipulating the handgun, trying to acquire a more secure grip of it.<sup>36</sup> Due to the movement of the bodies during the struggle, Damesworth lost sight of the handgun. Approximately ten seconds later, he heard two rounds fired, and all the officers stepped back as Gonzalez' body shifted slightly down the incline. Damesworth looked and saw Medina pointing his handgun at Gonzalez' mid to lower back area.<sup>37</sup>

Damesworth could no longer see Gonzalez' handgun, and continued trying to take him into custody. Damesworth held his right arm, but Gonzalez continued to struggle and would not release either of his hands. Gonzalez was reaching in his waistband with his left hand. Damesworth did not see an object, but believed he may have been attempting to retrieve another weapon. Damesworth yelled for an officer to control his left hand so they could take Gonzalez into custody, and Bostillo assisted him in securing the handcuffs. Damesworth did not see or feel any other weapons on Gonzalez' body.

Once Gonzalez was secured, Damesworth began to clear the citizens back, who were becoming unruly and yelling things at Gonzalez. He then saw Medina recover Gonzalez' handgun from under a fence. Damesworth did not see the handgun land in that area, but observed Medina recover it.

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<sup>33</sup> Damesworth could not hear if any other officers had issued commands to Gonzalez to stop, because Gonzalez had already run half way up the driveway by the time Damesworth stopped his patrol vehicle.

<sup>34</sup> Damesworth believes that officers were issuing commands to Gonzalez to stop resisting, but there was a lot of yelling and noise, and he was not certain of the commands.

<sup>35</sup> Damesworth thought, but was not certain, that he heard another officer or one of the citizens yell out "Gun!" first. He did not recall whether any of the other officers verbally acknowledged his warning about the presence of a handgun.

<sup>36</sup> Due to the position of Gonzalez' hand, Damesworth was able to see the entire handgun.

<sup>37</sup> Damesworth did not see Medina move from trying to control Gonzalez' left arm to the position from where he fired the rounds.

## **Civilian Witnesses**

### **Nancy C.A.**

Nancy C. A. was doing yardwork at [REDACTED] Stone Street with John A. and Michael B., when she saw a vehicle being pursued in the neighborhood. The group ran back to her residence at [REDACTED] Atwood Place when they felt that M [REDACTED] was going to drive onto Atwood Place and up the driveway.<sup>38</sup> Nancy C.A. saw M [REDACTED] stop at the bottom of her driveway, Gonzalez exit the passenger side and run up the driveway.<sup>39</sup> Nancy C.A.'s son, Joshua A., arrived and she told him, "Get ready, he's coming up!" Nancy C.A. met Gonzalez halfway down the driveway, pushed him, and said, "You are not fucking going to come up my driveway! Get the fuck out of here!" Joshua A. threw a brick at Gonzalez to disable him, but it missed. Gonzalez took two steps back, and Nancy C.A. pushed him again. Joshua A. who was standing behind Nancy C.A., punched Gonzalez in the mouth, as Michael B. and her husband, John A. arrived. The group wrestled with Gonzalez, who lunged at them with an enraged look. He repeatedly reached towards his waistband as if he was trying to retrieve something. The group wrestled Gonzalez to the ground, and Nancy C.A. fell against the low embankment on the west side of the driveway.<sup>40</sup>

Simultaneously, six to eight officers ran up to them with their guns drawn, and told the group to step aside so they could control Gonzalez. The group complied with the officers and backed away, and the officers began to wrestle with Gonzalez. The officers repeatedly told him to put his hands behind his back, but Gonzalez struggled against the officers and failed to comply.<sup>41</sup> Gonzalez continued reaching for his waistband area, and Nancy C.A. heard an officer say that he had a gun. She heard two rounds fired, and then saw an officer retrieve a gun from Gonzalez.<sup>42</sup> He continued to resist the officers and tried to stand up. She and the group were told to step further back and they complied.

### **Michael B.**

Michael B., Nancy C.A., and John A. were doing yardwork, and watched a vehicle pursuit wind through the neighborhood. They ran to [REDACTED] Atwood Place to see if M [REDACTED] was going to drive up the driveway. M [REDACTED] stopped her car at the entrance to the driveway, and Gonzalez exited the vehicle. Gonzalez ran up the driveway, and Michael B. ran down to stop him, while John A. ran to get a tool to use as a weapon. Michael B. began pulling the back of Gonzalez' shirt, and tackled him around the legs. Gonzalez fell onto his left shoulder and rolled over twice.<sup>43</sup> Four officers ran up to apprehend Gonzalez, and told the group to back up. Michael B. backed away, and the officers grabbed Gonzalez' arms. While the officers tried to subdue Gonzalez and handcuff him, Michael B. saw him reaching his right arm across his body, towards the front of his pants. Michael B.'s view

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<sup>38</sup> The rear yard of [REDACTED] Atwood Place is uphill and adjacent to the rear yard of [REDACTED] Stone Street.

<sup>39</sup> John A. said Gonzalez had both hands in his waistband area as he ran up the driveway. Gonzalez' shirt was covering the waistband, so John A. could not see if there was an object concealed in the waistband, however he was fearful that Gonzalez was reaching for a handgun.

<sup>40</sup> Gonzalez never said anything during the initial confrontation or struggle.

<sup>41</sup> Joshua A. also told detectives that the officers on the left and right side of Gonzalez were pulling and tugging on his arms to place his arms behind his back, but Gonzalez resisted the officers' efforts to take him into custody by swinging his elbows back and forth.

<sup>42</sup> Joshua A. said that after the rounds were fired, the officers turned Gonzalez over on his back, and recovered a small "P-shooter" gun near Gonzalez' stomach.

<sup>43</sup> This is not depicted in the officers' Body-Worn Video or the Digital In-Car Video.

was partially blocked by the officers as they knelt over Gonzalez, but he assumed Gonzalez was trying to retrieve a handgun. The officers told him to put his hands back, but Gonzalez continued to struggle. Michael B. heard two rounds, but was unsure which officer fired them. The officers searched Gonzalez and recovered a small, .22 caliber semi-automatic from Gonzalez' front pockets. Gonzalez was handcuffed, and the officers told his group to step back.

### **Statement of Annel M**

M told investigators that she was aware that the officers were attempting to conduct a traffic stop, but Gonzalez told her to keep driving. Gonzalez said, "I have a strap," which M understood was a handgun. Gonzalez repeatedly apologized and said, "I can't go to jail. I can't go to jail." M did not stop the Altima because of what Gonzalez told her, and because she did not want to go to jail.

M saw the residents fighting with Gonzalez, but did not witness the officers use force against Gonzalez. She heard two rounds fired, but did not see the shooting because she was being taken into custody by other officers.

### **Video**

#### Medina

Medina's Body Worn Video (BWV) shows him seated in the driver's seat of a patrol car, while the car is driving forward during the daylight. Sirens can be heard, as voices are heard broadcasting information, including, the direction of travel, a "female driver and a male occupant who is reaching under the seat," and that they are "going to need the airship because the passenger is trying to jump out."

After several minutes of driving, Medina stops the car in the turnaround portion of the cul-de-sac, exits, and runs forward. He runs up an inclined driveway, behind Higareda and Damesworth. Gonzalez' left side and stomach are pressed against the embankment and fence on the west side of the driveway, and Higareda is on top of him. Medina and Damesworth arrive and approach Gonzalez nearly simultaneously. Medina is on the left side of Gonzalez and Damesworth is on the right side. As Gonzalez and the officers struggle, Higareda's left arm is seen wrapped around Gonzalez' shoulder, a portion of the left torso, and upper portion of Gonzalez' left arm, which is bent downward at the elbow. Gonzalez' left hand cannot be seen from this angle. Gonzalez can be heard saying, "What the fuck? What the fuck?" Medina's BWV then moves to an angle in which there is no visibility, and the words, "Gun! Gun! Gun! Gun!" can be heard. As Medina steps back, the lower portion of Gonzalez' torso is visible. Medina is then seen, holding his service weapon in his right hand, firing two rounds at a downward angle towards Gonzalez' mid back area. Gonzalez rolls off the embankment into the driveway, and an officer immediately tells Higareda to retrieve Gonzalez' gun under the chain-link fence where Gonzalez had been seated. The officers secure Gonzalez, and an officer can be heard saying, "He might have another one." "Choke him out dude," can also be heard.

## Higareda

Higareda's BWV shows him seated in the passenger seat of a patrol car, while the car is driving forward during the daylight. Sirens can be heard, as well as a male voice broadcasting the direction of travel. The voice describes a "female driver and a male occupant who is reaching under the seat," and later, that the passenger is trying to "exit the vehicle."

After several minutes of driving, Higareda exits the passenger door, and runs forward in the turnaround section of the cul-de-sac. He un-holsters his service weapon, and runs up an inclined driveway towards several people who are struggling with Gonzalez on the east side of the driveway, near the top of the incline. The individuals are yelling, while pushing and pulling Gonzalez. Nancy C.A. pulls him forward by the front of his shirt, causing him to bend and walk forward, while a male standing behind him pulls his right arm backward. Gonzalez is facing the embankment and chain-link fence on the west side of the driveway, and his momentum is moving forward, a couple of steps down the incline. Due to the jerking motion of Higareda's BWV as he ran forward, the angle of the camera, and the position of Gonzalez' body, it cannot be determined what Gonzalez was doing with his left arm and hand as Higareda approached him. Higareda, who is the first officer to arrive, approaches on Gonzalez' right side, and moves him westbound away from the individuals, across the driveway. Higareda is behind Gonzalez, whose lower body can then be seen partially seated against the embankment and fence. The left side of Gonzalez' torso is on the embankment, with his left arm and hand beneath his body. His left knee is tucked under his body, and his right leg is extended with his foot touching the driveway. The legs of two officers can be seen to the right of Gonzalez, while Higareda is on his back. Gonzalez leans forward, while an officer attempts to control his right arm. As the officers struggle with him, "Gun! Gun! Gun!" can be heard, and then, "Let it go, dude!" Moments later, two rounds can be heard. Gonzalez rolls off the embankment onto the driveway. An officer immediately tells Higareda to get the gun. Higareda reaches under the chain-link fence where Gonzalez had been seated and retrieves it. The officers eventually secure Gonzalez, who initially continued to resist. An officer can be heard saying, "He might have another one," and "Choke him out dude," can also be heard.

## **LEGAL ANALYSIS**

California law permits the use of deadly force in self-defense or in the defense of others if that person 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.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 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.* "Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance 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, 396-397.

## CONCLUSION

The evidence examined shows that LAPD GED Officers Danielle Lopez and Alejandro Feria, and Los Angeles County DPO Sonia Johnson were in a marked, black and white patrol car, assigned to gang crime suppression. They were patrolling to deter an ongoing rivalry between some of the local gangs, when they attempted to conduct a traffic stop of Annel M [REDACTED] for her failure to activate a turn signal, and her passenger, Gonzalez’, failure to wear a seatbelt. Lopez drove behind the Altima, activated the patrol car’s red light, and Feria broadcast that they would be conducting a traffic stop. Officers Eden Martinez and his partner, Alejandro Higareda, who were finishing a traffic stop nearby, responded to assist when they heard the broadcast.

M [REDACTED] initially appeared as if she was going to comply, but instead she continued driving. Gonzalez was armed with a loaded, .25 caliber semi-automatic handgun. M [REDACTED], aware that Gonzalez was armed with a “strap,” decided that she was not going to stop because she did not want to go to jail. After M [REDACTED] drove through a gas station without stopping, Lopez activated the patrol car’s siren. Initially, M [REDACTED] drove at relatively low speeds, but failed to stop. Feria requested additional units to respond, and Metropolitan Division Officers Bryan Damesworth, and his partner Nikole Bostillo, arrived to assist. M [REDACTED] drove through several posted stop signs, and the incident escalated into a vehicle pursuit as Feria continually broadcast updates. During the pursuit, Gonzalez bent down several times as if he was retrieving or concealing something underneath his seat, leading the officers to believe that he was armed with a handgun. M [REDACTED] sped through the residential area at speeds of approximately 35 to 60 miles per hour, and pedestrians ran to avoid getting struck by her car. Gonzalez opened and closed the passenger door, appearing as if he was going to jump out and flee. M [REDACTED] drove in circles through the neighborhood, and eventually stopped at the end of a cul-de-sac on Atwood Place.

Gonzalez jumped out of the car, and ran up an inclined driveway directly towards Nancy C.A., Joshua A., John A., and Michael B. who had been watching the vehicle pursuit, but were determined to stop Gonzalez from coming onto their property. As Gonzalez approached them, Nancy C.A. yelled, “You’re not going to fucking come here! Get the fuck out of here!” Gonzalez ignored her and began fighting with them. Nancy C.A. grabbed Gonzalez while Joshua A. tried to stop him with a brick. John A. and Michael B. arrived, and the group struggled with Gonzalez, who repeatedly reached towards his waistband area to remove his handgun. Fearing that Gonzalez was armed, and was going to take the group hostage or shoot them, Higareda ran up to them, grabbed Gonzalez and pulled him away. Falling into an embankment and fence bordering one side of the driveway, Higareda attempted to take Gonzalez into custody, along with Damesworth, Bostillo and Medina.

Refusing to heed their commands to place his arms behind his back and stop resisting, Gonzalez, who had fallen on his left side with his hand and arm tucked underneath his body, struggled against the officers. Damesworth worked to control Gonzalez’ right arm, while Medina attempted to pull

his left arm [REDACTED]. Higareda, who was on Gonzalez' back, yelled to warn the officers that he could not see Gonzalez' left arm. Gonzalez left hand moved up near his shoulder, [REDACTED] and Damesworth saw that he was holding the semi-automatic handgun.

[REDACTED] Medina yelled, "Gun! Gun! Gun!" Simultaneously, Damesworth saw that he was trying to grip the weapon, and yelled, "He's got a gun!" [REDACTED]

[REDACTED] In reasonable fear of death or great bodily injury to himself and his partner officer, Medina fired his service weapon at Gonzalez, ending the threat.

Given the rapidly evolving, life threatening situation that confronted Officer Medina, we conclude that he acted lawfully in self-defense and defense of another. We are therefore closing our file and will take no further action in this matter.