

Officer Involved Shooting of Antonio Perez

Los Angeles County Sheriff's Department

Deputy Eric Espinoza #519062

J.S.I.D. File #15-0127



JACKIE LACEY

District Attorney

Justice System Integrity Division

April 6, 2016

MEMORANDUM

TO: CAPTAIN STEVE KATZ
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

RE: Officer Involved Shooting
J.S.I.D. File #15-0127
L.A.S.D. File #015-03426-2178-013

DATE: April 6, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 12, 2015, fatal shooting of Antonio Perez by Los Angeles Sheriff's Department (LASD) Deputy Eric Espinoza. It is our conclusion that Deputy Espinoza acted in lawful self-defense and defense of others at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on March 12, 2015, at approximately 8:10 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene by LASD Lieutenant David Coleman.

The following analysis is based on reports, audio recordings, and photographs submitted to our office by the LASD, Homicide Bureau. No departmentally compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On March 12, 2015 at approximately 6:12 p.m., LASD Century Station Deputies David Brewer and Jesus Rubio were traveling westbound on Walnut Street in the unincorporated area of Walnut Park. Brewer was the driver and Rubio was seated in the right front passenger seat of their marked patrol vehicle. As they proceeded westbound, they saw a green Honda Civic parked facing eastbound along the south curb line with two occupants, Antonio Perez and a woman, later identified as Destiney M. Perez, the driver, made eye contact with Brewer and immediately pulled away from the curb. Perez drove the vehicle eastbound on Walnut Street and turned southbound on Pacific Boulevard, failing to stop for a stop sign.

Brewer turned his vehicle around, proceeded eastbound following Perez, and told his partner to run the license plate of the Honda.¹ As they turned southbound on Pacific, Perez turned

¹ Both Brewer and Rubio recognized Perez from previous contacts and Rubio believed that Perez did not have a valid driver's license. [REDACTED]

westbound on California Street and then southbound onto Sante Fe Avenue. As Brewer and Rubio traveled on California Street approaching Sante Fe Avenue, Brewer activated his vehicle's lights and siren. The deputies turned southbound onto Sante Fe Avenue and were unable to see the Honda.

The deputies turned right at the first opportunity and proceeded westbound in an alley which intersects with a north/south alley running between Sante Fe Avenue and Mabrisa Avenue. As the deputies passed the north/south alley, they looked north and saw the Honda parked mid-block in the alley. The deputies began to drive northbound in the alley. Simultaneously, their license plate query returned, indicating that the Honda was a stolen vehicle.

Brewer and Rubio parked their patrol vehicle, approached the Honda, and discovered that it was empty.² Several bystanders directed the deputies to the courtyard area of [REDACTED] Sante Fe Avenue, indicating that the suspect had run in that direction. Brewer and Rubio proceeded toward that location and informed dispatch that a stolen vehicle suspect had just run from their location. As Brewer and Rubio proceeded through the courtyard, bystanders directed the deputies eastbound across Sante Fe Avenue and then eastbound on Walnut Street. Brewer updated dispatch, indicating that the suspect was Antonio Perez and he was traveling eastbound on Walnut Street. Brewer saw Perez scale a wall to a building located on the corner of Walnut Street and Sante Fe Avenue and proceed southbound through the property towards California Avenue.

Additional deputies were called to the scene and established a perimeter to apprehend Perez and Destiney M. LASD Aero Bureau responded, provided air support, and assisted in coordinating the perimeter and search. As this was happening, Delores Flores was interviewed by deputies.

Flores told the deputies that she heard a crash in the alley behind her residence.³ She looked westbound and saw a Hispanic man followed by a Hispanic woman running eastbound towards her location. When the man was approximately five feet away, Flores saw the man pull a black handgun from the right side of his waistband. Flores, in fear, covered her face with her arms until she heard footsteps running past her. She uncovered her face and saw the man running eastbound towards Sante Fe Avenue as the woman followed. The man was putting the gun back into the right side of his waistband. Flores described the man as 25-35 years old, weighing 160-200 pounds, and dressed in a white shirt and dark shorts.⁴ Deputies immediately communicated over the radio that the "suspect is 417, black 417," indicating that Perez was armed with a black gun.

Perez fled southbound midblock through residences, traveling from Walnut Street, crossing California Street, and arriving on Live Oak Street. Aero Bureau deputies observed Perez

[REDACTED] However, at the time of this incident, he did possess a valid driver's license. Investigators later determined that the Honda had a punched ignition, indicating that it was stolen.

² The investigation revealed that Perez collided with a white Acura driven by Jose Capristo that was proceeding southbound in the alley and fled the scene. Capristo told deputies that the driver was a male Hispanic with a shaved head and a female Hispanic was seated in the right front passenger seat. The driver and passenger exited the car after the collision and ran eastbound. Capristo indicated that the driver was wearing a white shirt and shorts. Capristo did not see the man holding a gun, but believed that the man had a gun based upon his demeanor. Shortly after, Capristo heard a woman telling someone that the man had a gun.

³ Flores resides in an apartment located at [REDACTED] Sante Fe Avenue.

⁴ Perez was 32 years old and weighed 175 pounds.

climbing through backyards of California Street residences and heading towards Live Oak Street, but briefly lost sight of him. Perez entered the residence located at [REDACTED] Live Oak Street by forcing his way past Maria Aceves as she opened the metal security gate to her home to check on a noise that she heard outside. Aceves, scared, ran out to the street, contacted Deputy Jhonattan White, and told him what had just occurred. Aceves saw Perez walk eastbound on the north sidewalk of Live Oak Street and run across the street, out of view.⁵ Aceves pointed at Perez and told White, "That's him!" White broadcast this information.

Perez continued to flee southbound through backyard areas. Perez jumped over a fence, landed in the backyard of a residence located at [REDACTED] Flower Street, and ran towards the residence located at [REDACTED] Flower Street.⁶ Alfredo Sanchez watched Perez approach [REDACTED] Flower Street and then heard a loud crash. Sanchez described the noise as consistent with a door being forcefully pushed or slammed in order to force entrance.⁷ When Sanchez initially saw Perez, he described Perez as "bald head, five feet seven inches, medium build, wearing light brown or tan pants." Approximately two to four minutes later, Sanchez again saw Perez. Sanchez immediately noticed that Perez had changed his clothing. Perez was now wearing a dark colored hooded sweatshirt and orange shorts.⁸ Perez placed the hood over his head and concealed himself adjacent to a small wall. Sanchez watched Perez walk south down the driveway and then begin to sprint across the street. Sanchez lost sight of Perez.

Deputies Thomas Spinks and Eric Espinoza heard the initial broadcast regarding the stolen vehicle suspect, the update that the suspect was armed with a gun, and the description of the suspect as a bald Hispanic man. They responded in their marked black and white patrol vehicle to a request for assistance with the perimeter and took a position mid-block on Flower Street between Sante Fe Avenue and Pacific Boulevard. Spinks and Espinoza were aware that Perez was running over walls and fences and through yards, and as stated by Espinoza, "did not want to be apprehended." Due to the varying clothing descriptions, the deputies believed that Perez had been changing his clothing as he ran. After approximately one minute, both deputies heard an update that Perez was running southbound from Live Oak Street towards their location. Espinoza looked north from his position and saw Perez walking down a driveway of a residence located on the north side of Flower Street. Perez was visibly winded and "glistening with sweat."

As Perez walked toward Espinoza, Espinoza ordered Perez to "Stop right there! Get on the ground! Let me see your hands!"⁹ Perez did not stop, kept his hands inside his jacket pockets, and kept walking towards Espinoza as Espinoza continued to order him to "Stop! Stop moving! Stay right there and let me see your hands!" Perez momentarily acted as if he was going to stop,

⁵ It was later determined by investigators that Perez stole clothing from Aceves' residence.

⁶ [REDACTED] Flower Street is the address of the rear residence located on the same property as [REDACTED] Flower Street.

⁷ Investigators later determined that the door frame for the door leading directly to a bedroom at this location was damaged in a manner consistent with being kicked or forced inward.

⁸ Later investigation revealed that Perez broke into [REDACTED] Flower Street while it was occupied by Blanca Escheverria, her niece, Jessica V., and her five year old cousin, Mark V. Perez stole Jessica V.'s orange P.E. shorts, a black hooded zip up sweatshirt or jacket, and several car keys, and fled the location after changing his clothes. Perez left a pair of tan Dickies pants in the bedroom, which contained identification in his name.

⁹ Spinks was at the driver's side of their car and Espinoza was on the passenger's side. Spinks initially saw Espinoza talking to someone, but did not see Perez until he walked closer to Espinoza.

but then made a “quick jerk movement” and ran southbound past Espinoza along Espinoza’s right side.¹⁰

Perez ran across the street and into the driveway of a residence located at 2432 Flower Street. Espinoza followed and continued to order Perez to “Stop!” and “Put your hands up!” Spinks followed Espinoza and also ordered Perez to “Stop running!” Suddenly Perez stopped running up the driveway, spun his body around to face Espinoza, and reached into his waistband with both hands. As Perez reached into his waistband, Espinoza again yelled for him to put his hands up. Believing that Perez was armed with a handgun based upon the information broadcast during this incident, Espinoza was afraid that Perez was retrieving a gun and was going to shoot him or his partner, who was standing behind him. Espinoza fired three shots at Perez. Perez fell forward onto the driveway, landing face down.

Paramedics were called and responded to the scene, where they pronounced Perez dead. On March 15, 2015, Deputy Medical Examiner Dr. Jeffrey Gutstadt, M.D. performed an autopsy on Perez’ body. Perez suffered three gunshot wounds: one wound to the abdomen, one wound to the right shoulder, and one wound to the left upper back. The direction of travel in the wounds to the shoulder and back are downward and consistent with Perez bending forward at the time he was hit by gunfire.

Espinoza was armed with a Smith & Wesson MMP 9 mm pistol. The maximum capacity of this weapon is 18 total rounds. After this incident, Espinoza’s duty weapon contained 15 rounds. Three cartridge casings were recovered at the scene in close proximity to Perez’ body. Although Perez had been described as being armed with a black gun, a weapon was not found.

Investigators interviewed Destiney M. Destiney met Perez, who she called “Jesse,” on Facebook in January. On March 12, 2015, Jesse picked up Destiney from Bobo’s Hamburgers in the green Honda, which Destiney assumed was stolen based upon the punched ignition. They planned on hanging out and smoking weed. Jesse was dressed in a grey “muscle” shirt and tan pants. As they drove, Destiney saw the police following them and Jesse began to drive faster. Destiney told Jesse to stop, but he did not listen to her. Jesse tried to maneuver around a car ahead of them in the alley, but there was not enough space. Jesse crashed the Honda into the other car. Destiney climbed out of the window and Jesse told her to run, which she did. They split up and Destiney was ultimately stopped by a deputy.

CONCLUSION

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505. If the person’s beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 3470. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

¹⁰ At some point, Perez dropped several sets of keys onto the driveway where they were recovered by investigators.

“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.

The evidence examined in this investigation shows that Deputy Eric Espinoza and his partner, Thomas Spinks, responded to assist in a perimeter search to apprehend Perez. At the time that he responded, Espinoza was aware that Perez had stolen a vehicle and fled to avoid being apprehended. Espinoza heard the broadcasts indicating that Perez was seen running over fences and walls in a residential neighborhood and was armed with a black gun. Espinoza also reasonably believed that Espinoza had been changing his clothing to avoid arrest based upon the information that had been broadcast.

Espinoza was told that Perez was traveling in his direction. Espinoza looked north and spotted Perez, who appeared to be sweating and out of breath. Espinoza issued multiple orders for Perez to stop and show his hands. Perez kept his hands in his jacket pockets, pretended to momentarily comply, and then ran past Espinoza, across the street and up a residential driveway. Perez suddenly turned and reached his hands toward his waistband. At that moment, Espinoza reasonably believed that Perez was reaching for a gun based upon previous information that Perez was armed with a gun, Perez’ extensive efforts to avoid arrest, Perez’ sudden turn to face Espinoza, and the fact that Perez reached his hands towards his waistband, a common area to conceal and carry a firearm. Forced to make a split-second decision, Espinoza fired his duty weapon three times in fear for his life and his partner’s life.

We conclude that Deputy Eric Espinoza was placed in reasonable fear of imminent danger of death or great bodily injury by Antonio Perez’ actions and acted lawfully in self-defense and defense of others when he used deadly force. We are therefore closing our file and will take no further action in this matter.