



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE  
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS  
JUSTICE SYSTEM INTEGRITY DIVISION

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September 18, 2012

Captain David Smith  
Homicide Bureau  
Los Angeles County Sheriff's Department  
5747 Rickenbacker Road  
Commerce, California 90040

RE: J.S.I.D. File #12-0171  
L.A.S.D. File #012-03314-2199-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 7, 2012, fatal shooting of Arturo Cabrales by Los Angeles County Sheriff's Department (LASD) Deputy Anthony Paez. We have concluded that Deputy Paez acted lawfully in self-defense.

The District Attorney Command Center was notified of the shooting at approximately 3:25 p.m., on March 7, 2012. The District Attorney Response Team, comprised of Deputy District Attorney Jason Lustig and District Attorney Senior Investigator Rick Myers, responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based upon investigative reports, analyzed evidence reports and witness statements taken during the investigation by the LASD and submitted to this office by Detective Joe Espino. Compelled statements were not considered in this analysis.

#### **FACTUAL ANALYSIS**

On March 7, 2012, at about 3:00 p.m., Deputies William Turpin, Steve Espericueta and Anthony Paez, assigned to the Gang Enforcement Team, were on uniformed patrol in a marked Sheriff's vehicle in the Watts area of the City of Los Angeles. While Deputy Turpin was driving west on East 103<sup>rd</sup> Street, the deputies saw a male, appearing to be a gang member, seated on a bicycle on the sidewalk in front of a residence on the west side of Lou Dillon Avenue. The deputies

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decided to contact the male to collect gang intelligence, so Turpin turned onto Lou Dillon Avenue and drove south.<sup>1</sup>

As the deputies approached, they saw the male on the bicycle talking to two males standing in the front yard of the residence drinking alcohol. There was a cognac bottle, juice bottle and cups on the trunk of a car the males were standing next to. A closed wrought iron fence separated the front yard from the sidewalk. When Deputies Espericueta and Paez asked them what they were doing, the males said that they were hanging out drinking.

Espericueta told the male on the bicycle, Jen Ramos, to show his hands and conducted a pat down search. At the same time, Turpin asked Freddie Solis, standing closest to the driveway gate, to step outside to talk. Solis agreed and walked toward the driveway gate with his hands in the air. When Solis got to the gate, the third male, Arturo Cabrales, yelled, "Fuck that! You don't have to do that!" Cabrales told Turpin, "You can't come in my gate, fuck you!" Solis followed Turpin's order to open the driveway gate. Cabrales walked to the gate and held it to prevent Solis from opening it further. As Deputy Paez walked through the gate, Cabrales looked scared. He turned around and walked away from the deputies northwest toward the rear of the property.

Deputy Paez yelled at Cabrales, "Hey, come here!" Paez ordered Cabrales to show his hands, which were blocked from view by the vehicle in the yard. Cabrales replied, "Fuck you!" and continued walking away. Paez followed Cabrales, continually ordering him to stop and show his hands. When he was 15 to 20 feet behind Cabrales, Paez saw a gun holster on Cabrales' right hip protruding from under his shirt. Paez drew his service weapon, exclaiming, "417, gun, gun! Let me see your hands!"<sup>2</sup> Cabrales kept walking away quickly. When Cabrales reached up to unlatch the gate leading to the narrow walkway on the north side of the residence, his shirt raised enough to allow Paez to see a handgun in the holster.<sup>3</sup> Cabrales continued walking down the walkway. Paez followed, stopping at the walkway gate. Cabrales removed the handgun from the holster with his right hand, raised it and turned to his right toward Paez. He pointed the gun at Paez and made eye contact with him. Believing that Cabrales was about to shoot him, Paez fired six times from his service weapon.<sup>4</sup> Cabrales fell to the ground. Turpin ran to assist Paez who was standing at the open gate. Espericueta detained the other males in the rear of the patrol car. Turpin told Espericueta to broadcast the shooting and to request medical assistance.

Cabrales was lying on his left side with his face down and his hands underneath him. Both deputies repeatedly ordered Cabrales to show his hands. Once additional deputies arrived, Paez

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<sup>1</sup> Lou Dillon Avenue is a one-way street for northbound traffic. The deputies drove against traffic to provide an element of surprise.

<sup>2</sup> "417" is police code referring to Penal Code section 417(a)(2), brandishing a firearm.

<sup>3</sup> Cabrales was armed with a Glock model 19, 9mm semiautomatic firearm.

<sup>4</sup> Deputy Paez was armed with a Beretta model 92FS, 9mm semiautomatic firearm.

handcuffed Cabrales. One of the assisting deputies informed the other deputies that Cabrales' gun was on the other side of the fence on the property to the north.<sup>5</sup>

Cabrales was pronounced dead, at 3:08 p.m., by responding paramedics. On March 9, 2012, Deputy Medical Examiner Stephen Scholtz performed a postmortem examination of Cabrales' remains and determined the cause of death to be multiple (6) gunshot wounds mostly to the right side and back. His blood showed evidence of marijuana and alcohol consumption.

The residence where the shooting occurred consisted of a front house, middle house and a rear trailer used as a dwelling. Cabrales resided in the middle house with his girlfriend and child. Inside Cabrales' residence, investigators recovered a loaded .32 caliber pistol, three boxes of 9mm and .32 caliber ammunition, and illegal drug paraphernalia.

### LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. (*People v. Williams* (1977) 75 Cal.App.3d 731.)

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. (*California Criminal Jury Instructions* 3470.) If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into 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.3d 575).

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. Conner* (1989) 490 U.S. 386, 396-397.

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<sup>5</sup> The gun had an empty chamber with 13 live rounds in the magazine. Photos retrieved from his cell phone showed Cabrales posing with guns, including one of him with the Glock in a holster on his right hip.

## CONCLUSION

The evidence examined in this investigation shows that the deputies contacted the three males to investigate possible gang activity and public drinking violations. While two of the males were cooperative with the deputies' requests, Cabrales refused to comply. While Cabrales was walking away, Deputy Paez saw a gun in the holster on Cabrales' hip. Ignoring Paez's commands to stop and show his hands, Cabrales pointed the firearm in Paez's direction, placing him in fear of great bodily injury or death. To protect himself, Deputy Paez fired his service weapon six times, striking Cabrales and ending the threat.

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

Very truly yours,

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District Attorney

By

  
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c: Deputy Anthony Paez #520748