

# Too much information?

**BORDER AGENT WHO SHOT IMMIGRANT SUES OVER INVASION OF PRIVACY**

BY JUSTIN MCLACHLAN

In a silent, grainy surveillance video, the figure of a man stands in the desert on the banks of the All-American Canal, near the U.S.-Mexico border. He's less than a car length from a Border Patrol agent name Arturo Lorenzo. They maneuver around each other as the camera pans and centers, Lorenzo's rifle raised and the man's arm pulled back as if he's ready to throw something—probably a rock. There's a burst from the rifle and a cloud of dust, and the man collapses to the ground.

That was nearly three years ago. In the months following the shooting, the video was leaked and posted online. It went viral, sparking worldwide news coverage that culminated in showings on national news programs. Today, though, the video's traces are hard to find. The YouTube page that once hosted it bears a "video no longer available" message, as do numerous other places it once existed online. A search for "Ramiro Gamez Acosta," the 20-year-old man shot and accused of illegally crossing the border, is more likely to turn up news accounts of the incident than Lorenzo's.

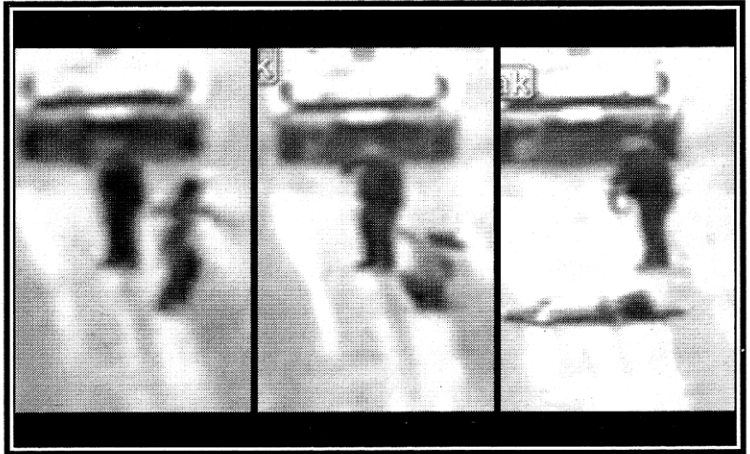
But that hasn't stopped Lorenzo and his wife from suing the U.S. government. In court documents, they said that releasing the video

of the shooting invaded Lorenzo's privacy and destroyed his reputation, exposing him and his family to death threats.

Indeed, public reaction was swift and sometimes brutal. Lorenzo was both vilified and praised, depending on which side of the immigration debate one fell. The video was a perfect storm that mixed hot-button issues like illegal immigration and the use of force in a way that gave everyone something to question. Is a shot to the chest with an assault rifle from a car length away an appropriate response to being threatened with a rock? Shouldn't border agents be allowed to take whatever means necessary to protect themselves in the increasingly violent border zone? Lorenzo's lawsuit probably won't answer those questions. It does, however, raise unique legal theories and claims, some stronger than others.

"If they have videotape of you or any other record that is not publicly available under any other law, and this information is about you, whether it is truthful or not truthful, you do, under the Privacy Act, have a right to expect the federal government to protect it," Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, said.

The Privacy Act is a federal law that prevents the government from divulging information in its records about specific individuals without their permission. That's a major part of Lorenzo's suit—he claims the government violated the Privacy Act when it, intentionally or not, allowed the video to be released.



Screen shots from the video of Agent Arturo Lorenzo shooting Ramiro Gamez Acosta

But he also goes beyond the specific protections of the Privacy Act into a host of general invasion-of-privacy claims like intrusion into private affairs and false light, legal concepts that, while not usually based on specific laws, say a person suffers injury (generally emotional or to their reputation) when information one would expect to stay private is made public.

Dalglish said that while Lorenzo might be able to make a case that the government violated the Privacy Act, he has a slim chance of winning on those general privacy claims.

Peter Scheer, executive director of the California-based First Amendment Coalition, agreed.

"It hardly looks like any kind of invasion of privacy when you're talking about a government employee engaging in what must be the most public act of his career, shooting somebody as an agent of the United States government," Scheer said. "The whole notion of a traditional privacy claim seems weak."

In many cases, even if a person can argue that his privacy was violated, he'll still lose if a court finds his interest in keeping something a secret is outweighed by the public's right or need to know the information. Lorenzo's attorneys, though, have argued in court

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## Privacy

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documents that the shooting was of "no legitimate public concern."

Scheer said he's hard pressed to think of any government policy that says the public shouldn't know about an officer-involved shooting after it happens.

Dalglish, too, was skeptical. "That's very subjective, and while they might not think it was newsworthy, I certainly disagree," she said.

Further complicating the suit is that Lorenzo doesn't know who at

the Department of Homeland Security leaked the video in the first place. Dalglish said to expect a round of subpoenas to find out, some of which might be directed at the *San Diego Union-Tribune*. The paper was widely credited for being the first to publish the video in 2007.

But even then, Scheer isn't sure the government can be held accountable for an anonymous leak within its ranks. "You have to ask, what could they have done to stop it?" he said.

Lorenzo doesn't ask for a specific amount of money in the lawsuit but wants to be compensated for emotional distress, lost income and the loss of his house, among other

things. He said in court documents that his wife had to give up a thriving insurance business when they were forced to move and that the loss of that income resulted in the foreclosure of their Calexico home.

For now, no one's talking. Neither the Department of Homeland Security nor a Justice Department lawyer handling the case responded to requests for comment. Reached by phone, one of Lorenzo's attorneys told *CityBeat* they wouldn't be doing any interviews about the case. Pablo Arnaud, Mexican consul general in Calexico, said he had no comment on the suit. **CB**

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