

Fatal Officer Involved Shooting of Pablo Elias
Bell Gardens Police Department

Officer Luis Isarraraz, #536

J.S.I.D. File #20-0090



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

May 25, 2023

MEMORANDUM

TO: CHIEF SCOTT B. FAIRFIELD
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CAPTAIN ANDREW D. MEYER
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Pablo Elias
J.S.I.D. File #20-0090
B.G.P.D. File #20-04114
L.A.S.D. File #020-00022-3199-013

DATE: May 25, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 10, 2020, fatal shooting of Pablo Elias by Bell Gardens Police Department (BGPD) Officer Luis Isarraraz. We have concluded that there is insufficient evidence to prove that Isarraraz did not act in lawful self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 9:00 p.m. on March 10, 2020. The District Attorney Response Team was given a briefing regarding the circumstances surrounding the shooting by Lieutenant B. Hall from the Los Angeles County Sheriff's Department (LASD).

The following analysis is based on investigative reports, radio communications, crime scene diagrams, photographs, surveillance video, and body worn video submitted to this office by LASD Detectives C. Dimmitt and J. Obrien. The voluntary statements of the officers were considered in this analysis.

FACTUAL ANALYSIS

Summary of the Facts

On March 10, 2020, at approximately 10:00 a.m., officers from BGPD responded to a family disturbance at a residence located at [REDACTED] Eastern Avenue in Bell Gardens. Upon their arrival, officers observed Pablo Elias fleeing the location in a Toyota Camry. Officers pursued Elias in a marked police vehicle but determined it was becoming too dangerous, so they terminated the pursuit. Further investigation revealed that Elias stole the Toyota Camry from his mother, [REDACTED]

■ who lived at the residence with his son, ■ Elias did not live at the location as ■ had a restraining order against him for elder abuse.

At approximately 9:34 p.m., Elias returned to the residence and a family disturbance ensued with ■ and ■. ■ called the police and Elias barricaded himself inside the home. BGPD police officers arrived and Elias told them he had “guns” and that he would have to be killed. BGPD officers were able to escort ■ and ■ out of the residence.

BGPD requested the assistance of the LASD Hostage Negotiation Team (HNT), the BGPD Special Weapons Assault Team (SWAT) and Montebello SWAT who all arrived on scene. The LASD HNT team attempted to persuade Elias to surrender and exit the residence but were not successful. Both SWAT teams deployed teargas into the residence causing Elias to exit the house wielding a screwdriver approaching the officers. Several “less lethal” weapons were deployed on Elias causing him to drop the screwdriver on the ground. Elias reached behind his back waistband as he continued to approach officers and Isarraraz fired his weapon numerous times striking Elias causing him to fall to the ground. Paramedics arrived and transported Elias to St. Francis Hospital where he was pronounced dead at 5:44 a.m. A knife and black handle screwdriver were recovered at the scene.

Scene

The residence is located on ■ Eastern Avenue which runs north and south. The residence faces east and is two properties south of Clara Street. There is a north/south alley that is directly behind the residence (west), with another residence that shares the same property on its north side. Both residences share the same driveway. Bell Gardens and Huntington Park Police SWAT teams responded to the east and west sides of the residence to contain all sides. A marked Armored Bell Gardens SWAT vehicle parked in front of the driveway in a northwest direction.

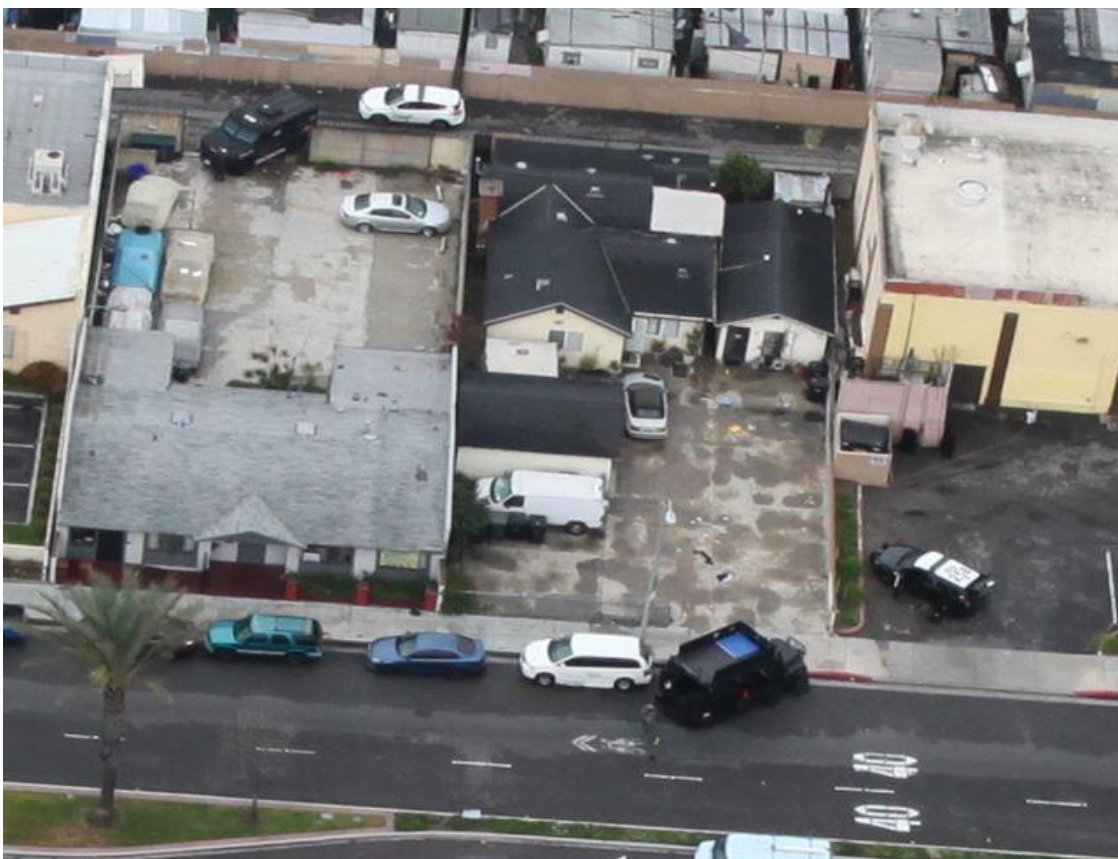


Figure 1. Overview of the scene depicting [REDACTED] Easter Avenue and a black armored vehicle in front of the driveway

CIVILIAN WITNESS STATEMENTS

[REDACTED] is [REDACTED] years old and the mother of Elias. She lives at [REDACTED] Eastern Avenue with her grandson [REDACTED]. At the time of the incident, she had a temporary restraining order against Elias for elder abuse. She did not witness the shooting.

On March 9, 2020, Elias came to the residence and demanded money from [REDACTED] for his drug addiction. [REDACTED] refused and Elias forcibly choked her and told her he would give her a reason to call the police. Elias proceeded to take the car keys to her Toyota Camry. [REDACTED] called the police. Elias left the residence in her vehicle shortly after BGPD officers arrived on scene. BGPD officers pursued Elias but terminated it after it became too dangerous.

[REDACTED] is Elias' son and [REDACTED]'s grandson. He lives with [REDACTED] and considers her his mother. On March 9, 2020 at approximately 11:00 a.m., he was in his room preparing to go to school when he heard [REDACTED] arguing with Elias who wanted to come inside the residence so he could rest and ask for money. [REDACTED] opened the door and Elias pushed his way inside. He walked behind [REDACTED] and grabbed the pockets of her sweatshirt. Elias dragged her approximately 10 feet into the hallway. [REDACTED] grabbed Elias and placed him in a chokehold

while Elias was dragging [REDACTED]. [REDACTED] released Elias when he said he was having trouble breathing. After he was released, Elias resumed dragging [REDACTED] down the hall until they were in the living room. Elias held [REDACTED] down by the wrist on the couch while blaming her as the reason he lost his job. [REDACTED] eventually was able to break free and stand up. Elias reached into her pockets and ran out of the house as [REDACTED] called the police.

At approximately 9:00 p.m., [REDACTED] heard someone knock at the front door. He then heard Elias pleading with [REDACTED] to let him back inside so he could rest and begged her not to call the police. [REDACTED] walked to the front door and told Elias to leave. As he closed the front door, he saw Elias walking towards the back of the property. [REDACTED] called the police and told them that Elias was going to break into the home. [REDACTED] then heard glass breaking so he and [REDACTED] decided to barricade themselves in her room. Approximately 15-20 minutes later, [REDACTED] and [REDACTED] were able to escape when BGPD officers escorted them away from the property. [REDACTED] told officers that Elias used to own two handguns, but Elias pawned one and lost the other one. [REDACTED] did not witness the shooting.

OFFICERS STATEMENTS

Officer E. Garcia

Officer Garcia works for the BGPD. He and his partner Officer Torres responded to a family disturbance at [REDACTED]'s residence on March 9, 2020 when Elias stole her Toyota Camry. He personally observed Elias steal her vehicle and pursued him for approximately 10 minutes before deciding to terminate it due to how dangerous Elias was driving.

Garcia responded to the location that same day at approximately 9:44 p.m. where he engaged Elias in a two-hour negotiation to surrender. During the negotiation, Elias said that he was in a bedroom in possession of two handguns and desired to commit suicide. Records check confirmed that Elias is the registered owner of a Kimber and a Glock handgun. Elias told Garcia that he would only come out in a body bag when he was told that SWAT had arrived.

Detective E. Curbelo

Detective Curbelo works for BGPD and was assigned to the BGPD Special Investigations Unit at the time of the incident. On the day of the incident, BGPD notified him that a Special Operations Team (SOT) team was being activated in response to a carjacking incident. Curbelo immediately picked up his equipment from BGPD and responded to the command post which was located near Consuelo's residence. While at the command post, Curbelo was shown a photograph of Elias and briefed. During the briefing, Curbelo learned that Elias was involved in a possible carjacking and robbery and armed with two handguns that he was willing to use.

Curbelo responded to [REDACTED] Eastern Avenue in an armored vehicle driven by Detective Perez. Sergeant Acosta, and Officer Isarras accompanied him. Perez parked the vehicle in the street directly in front of the driveway with the emergency lights activated and spotlights illuminating the residence.

The Crisis Negotiations Team (CNT) also arrived at the location and gave Sergeant Barrios a "Throw Phone" so they would be able to communicate with Elias. A "throw phone" is a device that

allows law enforcement to communicate with an individual while covertly recording audio and video of the surrounding area. Barrios along with three BGPD officers tossed the “Throw Phone” through an open window located at the front of the residence. Shortly afterwards, Montebello Police Department (MBPD) deployed a drone into the home. However, it crashed inside.

Sometime later, Elias appeared at the front window and tossed the “throw phone” outside. CNT was still able to communicate with Elias through the “throw phone” where his only request to have a cigarette was denied.

Elias came to the front door and opened it slightly. BGPD officers ordered him to walk outside but he did not comply. Instead Elias walked slowly outside and threatened to harm the BGPD canine if released. Elias went back into the residence.

BGPD decided to introduce chemical ammunition into the home. Acosta deployed several less lethal rounds through a window of the front of the house. Curbelo assisted officers in the back of the house with ammunition and heard that Elias was walking out of the house. Curbelo ran back to the front of the house and saw Elias standing next to a BMW car that was parked in the driveway. Curbelo positioned himself on the passenger side of the armored vehicle. Officer Catani and his canine were behind him. BGPD ordered Elias to put his hands up and get on the ground several times but Elias ignored them and continued walking toward them. Elias armed himself with a black and yellow handle screwdriver with a silver shaft in his right hand pointed in their direction. At some point, Acosta deployed a 40 mm less lethal sponge round at Elias, but it did not affect him. Elias looked around and warned officers not to deploy the canine on him. Elias was approximately 35-40 feet away at this time when he tossed the screwdriver to the ground.

BGPD officers continued ordering Elias to the ground but he continued to ignore them and kept walking closer to them. Acosta fired another 40 mm less lethal sponge round at Elias, but it was ineffective. Elias dropped his hands and continued walking towards the officers and got within 25 feet away from them. As Elias got within 15-20 feet away from the officers, he raised his hands up and then quickly dropped them with a mean look on his face. Elias turned his body, blading himself from Curbelo and the officers as he concealed his right side of his body while maintaining eye contact. Elias reached behind his back with his right hand and armed himself with an approximate six-inch metallic object resembling a knife or slide of a handgun. Curbelo heard 40 mm ammunition and three gunshots which appeared to be coming from the driver side of the armored vehicle.

Elias fell to the ground and landed approximately six to seven feet away from the sidewalk. Curbelo saw a metallic knife fall on the ground near Elias.

Curbelo told investigators that he had his duty weapon pointed at Elias at the time Elias reached behind his back and armed himself with a knife but did not discharge his weapon because he did not have a clear shot.

Sergeant M. Cobian

Sergeant Cobian had been with BGPD for 30 years. He was the team leader for the SOT at the time of this incident.

At approximately 11:00 p.m., Lieutenant Camacho advised him that the SOT was being activated in response to a barricade situation. Cobian responded to the command post near the scene where he heard Officer Tiscarena tell responding units over the radio that Elias was agitated and making statements to the effect of, "He was only leaving the residence in a body bag." Cobian learned that BCPD had been at the location for approximately three hours negotiating with Elias to exit the location. Cobian also learned from the patrol watch commander that Elias told officers that he had two handguns, a Kimber and a Glock. [REDACTED] told officers that Elias had seven handguns and one rifle over the years. Based on this information, Cobian believed Elias was armed with at least eight weapons.

Cobian responded to the location in a radio car and blocked traffic near the location so that the armored vehicle could setup in front of the residence. Cobian took position behind the armored vehicle with officer McCraner set up as sniper in the turret of the armored vehicle. The armored vehicle spotlights illuminated the residence and announcements were made to Elias to exit the residence which were unsuccessful.

CNT deployed a throw phone through the front window of the residence in order to establish communication with Elias while covertly video recording the interior of the location. MBPD also deployed an aerial drone inside the location but it did not capture any movement or conversations from inside as it was "smacked down" presumably by Elias. Shortly thereafter, the drone and the throw phone were thrown out the front door. Elias showed himself at the front door and told officers that he was not coming out. Elias seemed very agitated and told officers, "I'm going back inside to get my stuff and shoot it out with the police." Elias went back into the residence and closed the front door behind him.

Elias came to the front door several times keeping his hands out of view. On one occasion, Elias noticed the police dog and told officers, "Don't even think of sending the dog in because he won't win." Cobian believed Elias was armed with a knife or gun because Elias kept his left hand behind his back.

At some point, the command post notified Cobian that a search warrant was signed and allowed the introduction of gas into the residence via Ferret Rounds. The gas was deployed into the residence from the front and rear. Cobian could hear Elias cough and gag but the gas did not cause Elias to exit the residence. Since the gas was ineffective, Cobian decided to introduce "hot gas" into the home. After the "hot gas" was introduced, Cobian heard Elias begin to gag and choke. The front door of the residence swung open and Elias started walking out of the house.

Elias walked down the driveway toward the armored vehicle while being verbally combative. Elias had his hands up as he continued to walk toward the armored vehicle telling officers that he was going to kill the dog, or the dog was not going to win. Officers ordered Elias to get his hands up and get on the ground, but he did not comply.

Cobian moved to the right side of the armored vehicle along with the police dog and his handler. Next to him was an officer with the 40 mm launcher. Cobian did not know who was positioned on the left side of the vehicle. Officers continued giving Elias commands, but he ignored them and kept coming forward. Elias stopped in front of officers and told them he had a knife in his right hand. A decision was made to hit Elias with less lethal rounds from the 40 mm to gain compliance. Cobian believed Elias may have tossed a smaller knife but was not compliant after the first less

lethal round struck him. A second 40 mm less lethal round hit Elias but he continued to stand and stated he had another knife in his back pocket. Elias reached back towards his back pocket and pulled out a shiny object. Cobian was unsure if another less lethal round struck Elias but he fell to the ground. The police dog was deployed and latched onto Elias. Cobian subsequently broadcasted that Elias was down and in custody after officers handcuffed him.

Cobian later learned that Elias was shot even though he did not hear any gunshots. Paramedics arrived within five minutes and rendered aid to Elias.

Sergeant J. Acosta

Sergeant Acosta has been with the BGPD for approximately ten years. He was a member of the SOT at the time of the incident and his primary function was to handle the “less lethal” 40 mm launcher or the 40 mm launcher that deployed Ferret rounds containing cold gas or sponge rounds.

At approximately 11:10 p.m., Acosta was notified that the SOT was being activated. Prior to responding to the command post, Acosta reviewed the patrol logs and learned of the carjacking and robbery that occurred earlier in the day involving Elias.

After reporting to the command post, Acosta arrived at the target location. His job was to provide cover to assisting officers who were tasked in deploying a throw phone into the residence for CNT. After the throw phone was deployed, Acosta took cover at the armored vehicle believing Elias had handguns and a rifle in his possession. Acosta learned from other officers that had spoken to Elias earlier that Elias said he would not be coming out of the residence unless he was in a body bag.

Acosta took position facing west at the right side of the armored vehicle that was parked in front of the driveway of the location. Elias came out of the house and threw the throw phone outside. A drone was deployed into the residence. Elias came out a second time and threw out the drone. Approximately six times, Elias opened the front door and yelled at the officers. On one occasion, Elias told officers, “If you send in the dog, the dog is going to lose. I’m going to kill the dog. You’re going to need a new partner.” Elias never came out of the residence far enough to be detained by officers.

Shortly after, Acosta was authorized to deploy Ferret Rounds (cold gas) into the residence through the front and south side windows. Acosta deployed eight Ferret Rounds into the home. Detective Perez also deployed Ferret rounds, but Acosta was unsure how many. Acosta could hear Elias begin to cough but Elias did not come out of the house. Elias asked for a cigarette and Acosta told him if he came out of the residence he would give him a cigarette, but Elias refused to exit. At this point, Acosta and other units were given authorization to deploy “hot gas” into the house. Senior Officer Howard was the designated “hot gas” launcher.

Minutes after the “hot gas” was deployed, Elias could be heard coughing and he exited the residence. Acosta loaded his 40 mm launcher with less lethal “sponge” rounds. Officers gave Elias commands to put his hands up and get on the ground. Elias cooperated, but his actions were half-hearted. Acosta said Elias’ hands were halfway up as he walked towards the officers.

Elias continued to make his way down the driveway towards the officers at the armored vehicle. Acosta was now standing on the driver’s side of a patrol vehicle parked just north of the armored

vehicle in an adjacent parking lot north of the residence. Elias was approximately 10 feet away from the front of the armored vehicle. Elias was not complying with the officer's commands to get down on the ground. Elias dropped his hands and Acosta decided to launch a "sponge" round to gain compliance. He announced that he was going to deploy the 40 mm launcher before firing so that there would be no sympathetic gunfire. Acosta fired the launcher striking Elias, but the round had no effect. He reloaded the 40 mm and fired, again striking Elias without affect. Elias' hands were in the middle of the body, but he did not give up. Acosta made his way back to the officers standing at the front bumper of the armored vehicle with the canine officer in front of him. At that time, he saw Elias throw what appeared to be a screwdriver or knife on the ground and described his hands as being "all over the place."

Acosta believed that Elias was armed with a handgun since he tossed a knife, so he loaded a third "sponge round" and shot him a third time with no effect. Elias rotated to his left and placed his right hand behind his back and appeared to reach towards his waistband area. Acosta lost sight of Elias' right hand at which time he heard three pops that he recognized to be rifle rounds. Elias fell to the ground.

Acosta said the gunshots came from his left. He approached Elias and did not initially see any blood. It took about a minute until Acosta confirmed that Elias had been shot. Acosta saw one gunshot entry wound to the abdomen. Acosta began to ask officers with him if they fired the rounds. He later learned the identity of the officer that fired the rounds.

Officer R. Catani

Officer Catani had been an officer for BGPD for six years. He was assigned as the K9 handler (police dog) for the department and for SOT.

Catani arrived at the command post and contacted his team leader Cobian and learned that Elias had multiple weapons registered to him. Once the plan was finalized, Catani responded to the scene in his patrol vehicle which he parked in an adjacent parking lot north of the target residence just north of the armored vehicle that was parked in front of the driveway. He was assigned to be at the front of the location behind the armored vehicle with his dog as his only lethal protection.

The area was quiet when Catani arrived on scene. The throw phone had already been deployed into the residence and orders were being given to Elias to exit the residence. Officers told Catani that Elias had already thrown the throw phone out of the residence as well as an aerial drone that was deployed.

Communication was finally established between CNT and Elias. During the negotiations, Catani could see a full view of Elias and could hear him asking for a cigarette. Elias would show his face at the front door but would stay within arm's reach from the door so that he could run back inside. Elias was combative with officers and would flip them off. Elias told officers the only way he would exit the house would be in a body bag. Elias said, "Fuck you guys, come in and get me. Don't send that dog! If you send that dog, he's going to lose."

Elias exited the location after "cold gas" and "hot gas" were introduced and the negotiations ended. As Elias walked out the door and towards the driveway, Catani took his dog and moved up toward

the driveway on the north side of the armored vehicle and took a kneeling position. Other officers around him provided him cover.

Elias walked slowly down the driveway with his hands up at shoulder level. Suddenly, Elias dropped his hands to his side and Catani saw a sharp, “pointy” object in his right hand. Catani heard someone yell, “He has a knife!” Catani made the decision not to deploy the dog due to the fact that Elias could stab the dog. Numerous commands were given by officers to Elias to drop what he had in his hand and get on the ground, but Elias did not comply. Elias continued to close the distance between him and the officers. Less lethal rounds from the 40 mm were fired at him causing him to drop the object in his right hand. Catani later learned that the object was a screwdriver. Elias continued to be noncompliant with orders and lowered his hands to his sides.

Once Elias dropped his hands, Catani deployed his dog. As the dog ran up to Elias, Catani could hear another 40 mm less lethal round fired and a gunshot. Catani was unsure which direction the gunshot came from but said the 40 mm round and gunshot sounds were very distinguishable.

Catani’s dog bit Elias just above the groin area as he went to the ground. After Elias was on the ground, the dog re-gripped and bit him on the left side of his abdomen. Officers moved in and Catani removed his dog so that officers could handcuff Elias.

Catani noticed a butter knife on the right side of Elias’ body. He was not sure where the knife came from, but believed Elias possessed it at some point. After his dog released his bite, Catani returned his dog back to his patrol car.

Officer D. Torres

Officer Torres had been working for BGPD for 18 years. He is a member of the SOT as the “Explosives Breacher” and responded to the command post regarding a barricaded subject.

At the command post, he was briefed on the incident and was told that Elias possessed multiple firearms. Torres said he was familiar with the case due to his previous response to the location with Garcia earlier that day regarding the carjacking and robbery.

At the scene, Torres provided cover to officers deploying Ferret Rounds of gas into the residence. He could not tell if Elias was affected by the Ferret Rounds so “hot gas” was deployed into the residence. Shortly after the introduction of the “hot gas,” Torres could hear Elias coughing and saw him exit the residence.

Elias exited the house slowly and walked towards the officers, closing the distance. Torres and other officers gave Elias verbal commands, but Elias ignored them. Torres and Sergeant Barrios moved up to the front of the armored vehicle to give the canine handler, Catani cover as he moved up. Acosta moved up with them because he was assigned less lethal ammunition. Officers continued to give Elias commands to stop and put his hands up, but Elias did not comply and continued walking toward them. Elias had a knife in his right hand and told the officers to shoot and kill him. Elias became upset and threw the knife to the ground. Elias continued walking toward the officers. Torres felt uncomfortable with how close Elias was getting to them, so a decision was made to have Acosta deploy less lethal rounds.

As Elias kept getting closer, Acosta fired three less lethal rounds at Elias. Elias bladed the right side of his body away from officers and reached around to his back with his right hand and pulled out what appeared to be a silver kitchen knife. Torres heard a couple of “pops” that he immediately recognized as gunfire. At first, Torres thought the sniper was the one who shot because he had the best vantage point. Elias went down and Catani deployed his dog.

Torres believe Elias was so close he could have easily reached Isarraraz within seconds and assaulted him with a knife. Torres believed Elias was possibly high since the “less lethal” rounds had little to no effect on him. Torres believed Elias had weapons on him and wanted to do something to the officers.

Once Elias was on the ground, Torres ran up and handcuffed him. Torres and Perez were able to roll Elias over from his stomach so they could see his injuries. Elias was breathing but it started to become labored. They started removing some of Elias’ clothes and saw one gunshot to his abdomen. He also saw bruising to his abdomen where the 40 mm struck him as well as the dog bites. Fire personnel arrived and took over treatment.

Torres later learned that Isarraraz fired his weapon.



Figure 2. View of the driveway facing west

Officer L. Isarraraz

Officer Isarraraz has been with BGPD since 2007 and was a member of the SOT at the time of the incident.

On March 9, 2022 at approximately 11:15 p.m., Isarraraz was at home when he received a SWAT text notification about a barricaded suspect who was armed with two handguns and suicidal.

Isarraraz retrieved his gear from BCPD and arrived at the command post at approximately 1:00 a.m. on March 10th. At the command post, Cobian briefed Isarraraz about Elias and that Elias claimed to be armed with at least one handgun, was suicidal and would only come out of the house in a body bag.

Isarraraz and the tactical team arrived at the scene in an armored vehicle sometime between 1:00 to 1:30 a.m. The armored vehicle was parked at an angle on the east side of [REDACTED] Eastern Avenue in front of the driveway of the residence. Isarraraz exited the armored vehicle and cleared the vehicles parked on the curb line in front of the residence to make sure nobody was sleeping inside. Afterwards, he held a security position behind the back door of the armored vehicle for thirty minutes.

Isarraraz rotated to a security position at the front passenger quarter panel of the armored vehicle. He recognized Elias from the briefing when he exited the front door of the residence. Isarraraz along with several other officers shouted out commands to Elias to surrender but Elias was agitated and walked back into the house.

The CNT arrived on scene and a plan was made to deploy a throw phone into the residence. Isarraraz approached the front of the residence with officers from the tactical team. Since the front door was locked, the throw phone was deployed through an open window north of the front door. The tactical team retreated and got back into position by the armored vehicle.

Since there was no response by Elias through the throw phone, a tactical decision was made to redeploy the throw phone through the front door as the tactical team were able to obtain the keys to the residence from family members.

Isarraraz approached with the tactical team and retrieved the throw phone. Torres unlocked the front door of the residence and the throw phone was redeployed deeper into the residence. The tactical team retreated back to position at the armored vehicle.

Multiple announcements were made from the police to answer the throw phone but Isarraraz was unaware if Elias complied.

Elias came to the front door a second time and appeared to be agitated as he yelled at officers in English. Isarraraz was unable to make out what Elias was saying but was under the opinion that Elias had a clear understanding of what was going on but did not want to surrender.

A tactical decision was made to deploy a flight drone inside the residence. The drone flew into the residence through the front door. Moments later, Elias came to the front door and threw the drone onto the driveway. Elias reappeared at the front door shortly afterwards and threw the "throw phone" out of the house before going back inside and closing the door.

The tactical team decided that if Elias came out of the residence again, Isarraraz and Acosta would be the ones issuing verbal commands. Elias came out of the front door a third time. Acosta fired one 40 mm less lethal rubber round at Elias but Isarraraz was unsure if it struck Elias as he showed no reaction and walked back inside the residence.

The tactical team decided to deploy tear gas into the location. Officers put on their gas masks and gas was deployed via 40 mm launchers into the home. Isarraraz heard coughing inside the home. Elias came out of the house and Isarraraz took off his mask and yelled several commands at Elias to give up. Isarraraz's view of Elias was obstructed by a vehicle parked in the driveway.

Isarraraz heard a female voice (CNT member) from the loudspeaker of the throw phone box that Elias had thrown out of the house and onto the driveway. The female voice was calm and speaking to Elias in English. Elias spoke back in a calm, deliberate manner. Isarraraz heard Elias say that he was armed with guns and wanted a cigarette.

CNT made numerous requests for Elias to surrender but he never complied despite being advised that nobody was going to hurt him.

A decision was made to deploy hot gas into the location. At this time, Isarraraz took a security position at the driver's side rear door of the armored vehicle. Isarraraz could hear Elias coughing from inside the residence. The coughing was much louder and of greater volume than during the tear gas previously deployed.

Isarraraz said based on his training and experience with the deployment of hot gas, usually the suspects immediately surrender. In this case, Elias did not immediately surrender but appeared to be fighting off the effects of the gas.

Elias came to the front door and said he was "coming out" in English. Elias walked out of the residence and started walking slowly down the driveway. Isarraraz heard someone at the driver's side of the armored vehicle shouting out commands to Elias to show his hands and turn around multiple times. Elias disregarded these commands. Isarraraz believed Elias was armed.

Elias removed a small item from his waistband area with his left hand. Isarraraz could not determine what was in Elias' hands. Numerous orders were given to Elias to drop what he was holding but Elias refused, so two 40 mm "sponge" rounds were shot at Elias' torso. Elias did not react to both impacts.

Isarraraz was uncomfortable with how close Elias was to the tactical team positioned at the front of the armored vehicle. Isarraraz shouted out multiple times to Elias to stop. Elias suddenly dropped the item that was in his left hand. Isarraraz described this object to be long and narrow with a handle, similar to a screwdriver or ice pick.

Elias still did not comply with orders to surrender. Elias began pacing side to side (north to south) until suddenly he reached towards his waistband with his right hand. Isarraraz saw a shiny object, approximately five to six inches in length in Elias' right hand when he raised his arm from his waistband or back pocket. Isarraraz believed the object to be the slide of a semi-automatic pistol. As Elias pulled the object out in a deliberate and quick manner, he pivoted his body toward the officers located at the front driver's side of the armored vehicle approximately six to seven feet. Isarraraz was not sure if these officers were able to see this object since Elias bladed his body away from them.¹ Isarraraz said he believed that Elias had produced a handgun and was rapidly turning toward the officers on the other side of the armored vehicle. Isarraraz believed he needed to protect

¹ See Figure 1.

his life and the life of his partners, so he fired three rounds from his duty rifle at Elias' mid-torso causing Elias to immediately fall to the ground. The police dog was deployed and bit Elias. The arrest team from the front of the armored vehicle approached Elias and placed him under arrest.



Figure 3. Evidence placards 3 and 4 next to a knife and screwdriver on the driveway adjacent to the sidewalk.



Figure 4. Knife found on driveway



Figure 5. Screwdriver found on driveway

Post-Mortem Examination

Doctor Palmer performed the post-mortem examination on Elias on March 11, 2020. Elias had three deep bruises to the center-left stomach area that were consistent with bruising caused by 40 mm less lethal sponge rounds. Palmer observed a bullet hole in the center of Elias' abdomen just

above the naval and a bullet hole just above his groin area. Palmer ruled the mode of death a homicide via multiple gunshot wounds.

Videos

The throw phone and body camera videos did not capture the shooting.

LEGAL ANALYSIS

The Law

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 section 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 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.*

A police officer may use deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person. Penal Code section 835a. "Totality of the circumstances" means all the facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. In determining whether or not deadly force is necessary, officers shall evaluate each situation in the light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.

Analysis

In this matter, the evidence shows that Officer Isarraraz confronted an agitated person allegedly armed with at least one handgun, was suspected of robbery and carjacking and who stated that he would only come out of his house in a body bag. The failure of tear gas, destruction of a drone, threat to kill a police dog and statements via the throw phone that he was armed were factors that reinforced Elias' assertion that he intended to violently resist arrest.

Against this backdrop, Elias approached officers while refusing commands to stop and show his hands. Less lethal munitions failed to stop him. As Elias approached, he dropped an item resembling a screwdriver or ice pick. Isarraraz said that Elias suddenly reached toward his waistband. When Elias raised his hand again, he held a shiny object Isarraraz said resembled the slide of a semi-automatic pistol. As Elias produced this object, he pivoted toward the officers at the front driver's side of the armored vehicle. Isarraraz said he was not sure if these officers

could see this object, and believing that Elias possessed a handgun, he fired his rifle because he feared for their safety and his.

CONCLUSION

Considering the totality of the circumstances known to the officers at the time and the fact that tactics short of deadly force failed, we cannot determine that it was unreasonable for Officer Isarraraz to believe that deadly force was necessary. This conclusion is not altered by the hindsight knowledge that the shiny object was a butter knife, not a firearm.