

Non-fatal Officer Involved Shooting of Edwin Vasquez
Los Angeles Police Department

Officer Gabriel Garcia, #44284

J.S.I.D. File #21-0163



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 10, 2023

MEMORANDUM

TO: CAPTAIN OMAR BAZULTO
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

SUBJECT: Non-fatal Officer Involved Shooting of Edwin Vasquez
J.S.I.D. File #21-0163
L.A.P.D. File #F023-21

DATE: October 10, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 23, 2021, non-fatal shooting of Edwin Vasquez by Los Angeles Police Department (LAPD) Officer Gabriel Garcia. We have concluded that Officer Garcia acted in lawful self-defense at the time he fired his service weapon, reasonably believing, based on the totality of the circumstances, that deadly force was necessary to defend against an imminent deadly threat.

The District Attorney's Command Center was notified of the shooting on April 23, 2021, at 4:08 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by LAPD Lieutenant David Smith.

The following analysis is based on body worn camera video (BWV), investigative reports, audio recordings and transcripts of witness interviews, crime scene diagrams and photographs, medical and toxicology reports, and surveillance video submitted to this office by LAPD Force Investigation Division (FID) Detective S. Hancock, on October 12, 2022. The compelled statement of Officer Garcia was not considered in this analysis.

INTRODUCTION

On April 23, 2021, at approximately 2:25 a.m., Los Angeles Police Officers from the North Hollywood Division responded to an "Assault with a Deadly Weapon ("ADW") cutting investigation," at [REDACTED] Whitsett Avenue, North Hollywood.¹ The 9-1-1 caller stated, he heard "struggling" and saw "blood and a small knife in the hallway outside of the apartment."

Officers arrived at the location and found Edwin Vasquez face down, lying in the narrow breezeway of the apartment complex, with a large kitchen knife inserted in his neck. Mr.

¹ [REDACTED] Whitsett Avenue is a three-story apartment building. Each floor has a breezeway to access the apartment residences. The first-floor breezeway is a narrow pathway approximately 105 feet long and 11 feet 9 inches wide.

Vasquez told the officers that he was suffering from mental illness and that the knife wound was self-inflicted.

Officers Kassis and Garcia were the first officers to arrive on the scene. Mr. Vasquez told them he wanted an ambulance. Officer Kassis calmly spoke to Mr. Vasquez attempting to build rapport and deescalate the tense situation. Officer Kassis told Mr. Vasquez, that he had called for an ambulance and asked Mr. Vasquez to remove his hands from the knife. Officer Kassis stood approximately 10 to 15 feet away, on one side of Mr. Vasquez while his partner, Officer Garcia provided cover (i.e. protection) with his service weapon on the other side of Mr. Vasquez.

Other officers and LAFD paramedics arrived to the location. However, the paramedics could not render medical aid until Mr. Vasquez was disarmed. Officer Kassis told Mr. Vasquez that the paramedics and officers were there to help him, but they could not help him until Mr. Vasquez released his grip on the knife (in his neck). Officer Garcia told him, “Just drop the knife. Just drop the knife, man.” However, Mr. Vasquez refused to comply.

Mr. Vasquez told them, “You gotta shoot me” as he shifted his weight and appeared to get up.² Concerned for Mr. Vasquez’ life and officer safety, Sergeant Andreas warned Mr. Vasquez not to stand up. Sergeant Andreas warned Mr. Vasquez, that if he stood up they were going to shoot him with the [40mm Less Lethal Launcher] and that “it was going to hurt.” Mr. Vasquez ignored commands not to move and again, shifted his bodyweight. Mr. Vasquez continued to be aggressive, staring down Officer Garcia and gritting his teeth. It appeared to the officers that he was contemplating lunging at them. Sergeant Andreas told Mr. Vasquez, “Don’t do it buddy. Don’t do it.” Hoping to catch Mr. Vasquez by surprise and quickly disarm him, Sergeant Andreas ordered Officer Santoyo to deploy his taser.

Officers were within six feet of Mr. Vasquez when the taser was deployed. Mr. Vasquez was hit by the taser; however, it was ineffective. Mr. Vasquez immediately jumped to his feet and lunged towards the officers while holding onto the knife which was still inserted in his neck. Almost simultaneously, Officer Gonzalez discharged his 40mm Less Lethal Launcher (“40mm”) at Mr. Vasquez, while fractions of a second later, Officer Garcia shot Mr. Vasquez twice with a 9mm handgun. Officer Gonzalez missed Mr. Vasquez with the 40mm, hitting the wall behind him, while Officer Garcia hit Mr. Vasquez twice with his 9mm service weapon from a distance of eight feet 11 inches.

FACTUAL ANALYSIS

Video Evidence

Surveillance Video from [REDACTED] Whitsett

Video surveillance from the adjacent apartment complex, captured Mr. Vasquez running back and forth along the apartment buildings breezeways, before dropping a bloody knife in front of an apartment door. One of the residents inside the apartment complex called 9-1-1 and reported hearing the knife drop outside his apartment as Mr. Vasquez ran back and forth. At one point,

² Edwin Vasquez is 5 feet 10 inches and 276 pounds.

the surveillance video shows Mr. Vasquez hanging over the side of the third-floor railing, by one arm. (*Figure 1.*) A bloody knife dropped by Mr. Vasquez and described by the caller, was present in the surveillance video.



Figure 1: Mr. Vasquez hanging by one arm from the third floor landing (knife circled in yellow).



Figure 2: Mr. Vasquez hanging from the second story railing before dropping to the first floor.



Figure 3: Mr. Vasquez, after dropping from the second floor to the first floor.

After climbing back over the third-floor railing, Mr. Vasquez ran down to the second-floor landing and climbed over the railing of the second level. He hung from the railing by one arm, before dropping down to the first level breezeway. (*Figures 2 and 3.*)

BWV

The officers present at the incident were equipped with BWV cameras. Body camera footage showed Mr. Vasquez arguing with Officers Kassis and Garcia on the first level. The officers radioed for an ambulance while Officer Garcia's BWV camera showed Mr. Vasquez inserting a knife into his neck. (*Figure 4.*)

Officer Kassis stood approximately 14 feet away and bent down to his knees trying to calm Mr. Vasquez. Mr. Vasquez told them, "I'm going deeper! I'm going deeper man! There's a lot of people fucking with me and shit! Shoot me! I don't give a fuck! I have fucking mental issues! . . . They're shooting me with darts." When Officer Kassis asked him who [was shooting him with darts] he said, "Those motherfuckers right there!" Officer Kassis told Mr. Vasquez, there were no other people in the breezeway. Mr. Vasquez rolled over and sat up, panting as he pushed the knife deeper into his neck. (*Figure 5.*)



Figure 4: Mr. Vasquez held the knife to his neck and was stabbing himself.

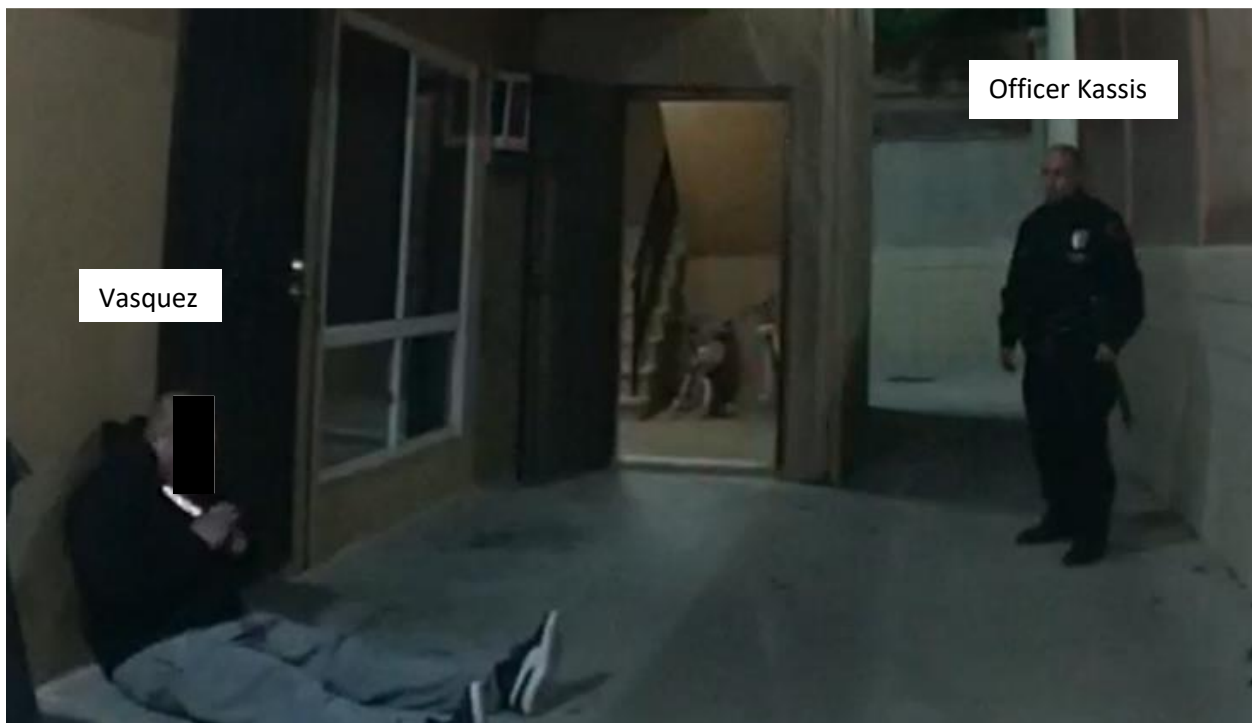


Figure 5: Officer Kassis stood on one side, as Mr. Vasquez was propped up next to Apt. No. 3, while holding the knife. (Officer Garcia stood with his weapon drawn at the “low and ready” position” on the opposite side. Residents were inside their apartment during this time.)



Figure 6: Officer Santoyo deployed his taser, while Officer Gonzalez stood ready with the 40mm and Officer Garcia has his service weapon drawn.

Officers Pedro Santoyo, Mark Gonzalez, and Sergeant Andreas arrived at the location. Officer Santoyo was armed with a taser and Officer Gonzalez was armed with the 40mm. They positioned themselves behind Officer Garcia, who was providing lethal coverage (*Figure 6.*)

Officer Kassis asked Mr. Vasquez if he lived with anyone. Mr. Vasquez told him, he lived with his sister. Officer Kassis asked for an officer to check on Mr. Vasquez's sister inside their apartment and tried to calm him down by asking him what was going on his life. Mr. Vasquez told him, "I've lost everything."

Mr. Vasquez told the officers, "They are shooting me with tranquillizers!" while pushing the knife deeper into his neck. Officer Kassis told Mr. Vasquez, "Just don't push it in. Edwin! Hey, Edwin! Stop pushing it in, man! . . . I'm here to help you! I'm here to help you!" Sergeant Andreas told him, "Hey Edwin, I can get you help, but you need to let go of the knife completely."

However, Mr. Vasquez refused to comply and shifted his weight. Sergeant Andreas told Mr. Vasquez, "Don't stand up Edwin . . . Don't get up." Mr. Vasquez responded by telling him, "You gotta shoot me." After repeatedly telling Mr. Vasquez not to stand up, Sergeant Andreas told Officer Santoyo to tase Mr. Vasquez. Officer Santoyo deployed the taser but it was ineffective. Mr. Vasquez immediately jumped up, while holding onto the knife he lunged towards the officers. (*Figure 7 and Figure 8.*)

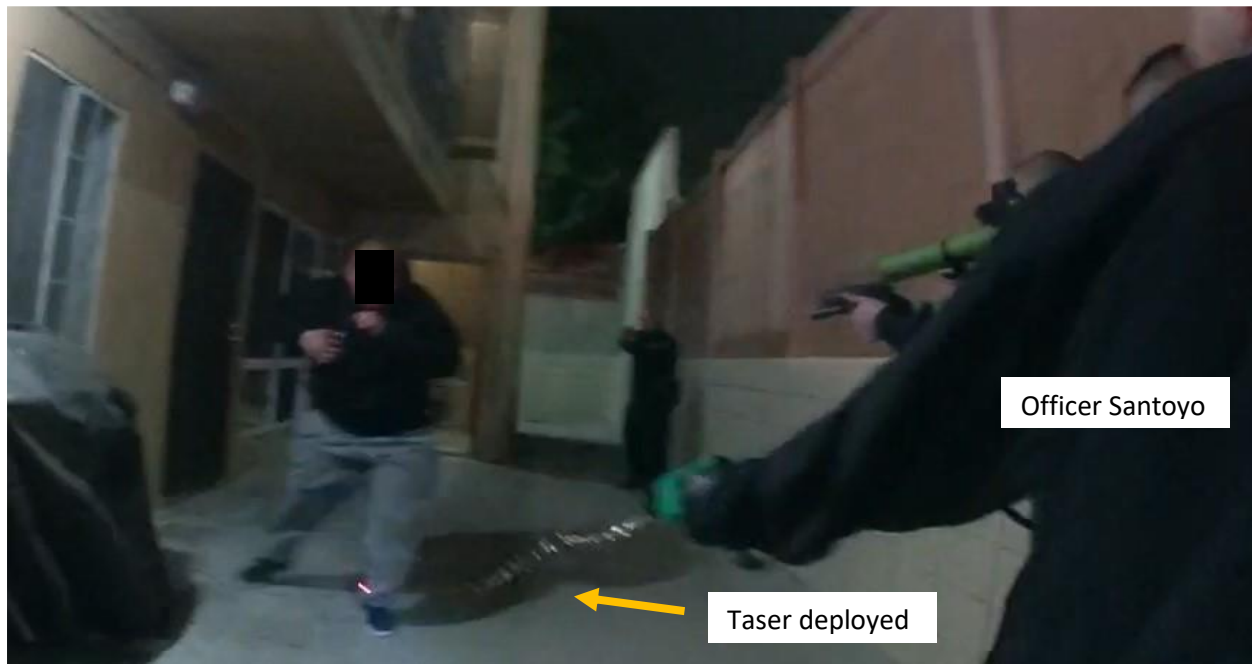


Figure 7: After the taser was deployed, Mr. Vasquez immediately jumped to his feet and charged the officers.

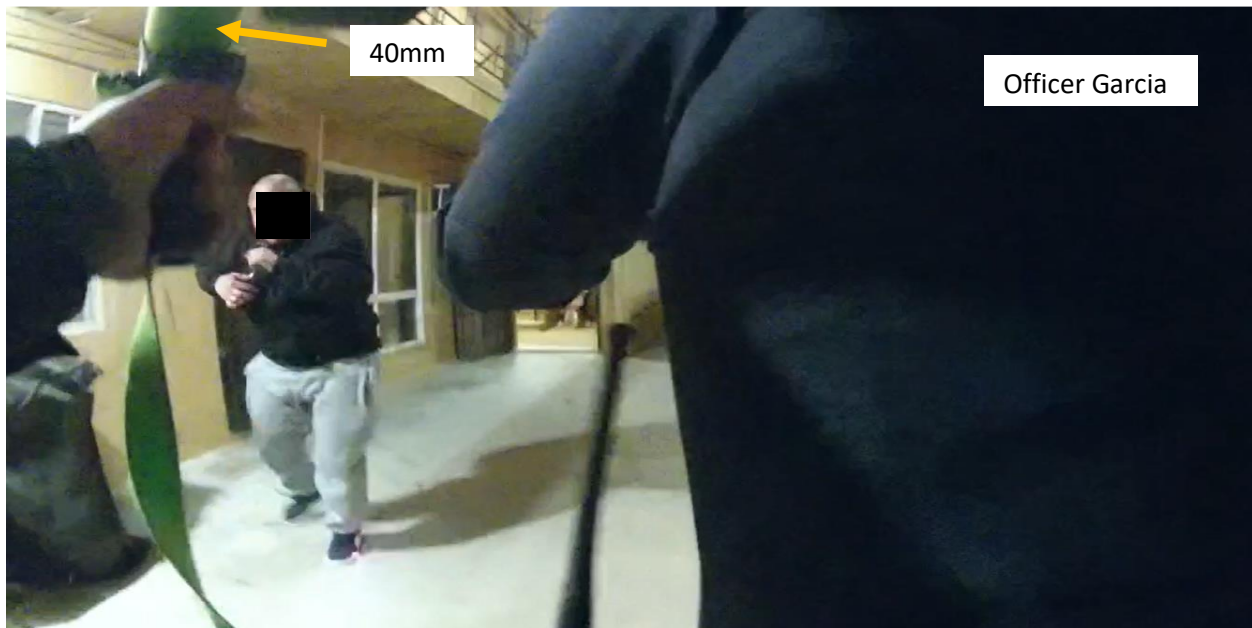


Figure 8: Mr. Vasquez, with his hands on the knife, seconds before Officer Gonzalez fired the 40mm.

Officer Gonzalez fired the 40mm. It missed Mr. Vasquez and hit the wall behind him. (Figure 9.) Almost simultaneously officer Garcia fired his service weapon two times and Mr. Vasquez fell to the ground with his arms underneath his body. Officers took him into custody and

handcuffed him, while the knife was still inserted in his neck. Mr. Vasquez was taken into custody and paramedics approached to treat his wounds. (Figure 10.)



Figure 9: The 40mm missed Mr. Vasquez and hit the wall behind him (circled in red).



Figure 10: As firefighters turned Mr. Vasquez over, they saw the knife. He was awake and alert, and refused treatment.

Mr. Vasquez told them, “I know my rights!” and refused to allow them to insert an IV or take his blood pressure. While he was alert and awake, the paramedics had no other choice but to follow Mr. Vasquez’ directive. They placed Mr. Vasquez on a gurney and transported him to Cedars-Sinai Medical Hospital where he was sedated and treated.

Officer Statements

Officer Jusef Kassis

On the night of the incident, Officer Jusef Kassis and his partner Officer Gabriel Garcia responded to a radio call of an assault with a deadly weapon (“ADW”) at an apartment complex on Whitsett. When Officer Kassis arrived, he heard groaning and saw Mr. Vasquez face down in a narrow walkway. The walkway was 10-15 feet wide, with a brick wall on one side and doors to the apartment residences on the other side.

As Officer Kassis approached Mr. Vasquez, Officer Garcia told him, “[Mr. Vasquez] had a knife to his neck.” Officer Kassis got onto his knees as he tried to initiate a conversation with Mr. Vasquez. Officer Kassis saw that the knife was in[side] Mr. Vasquez’ neck and learned that the wound was self-inflicted. Mr. Vasquez told Officer Kassis that he fell or jumped off the second story and that he wanted to die. Officer Kassis called for an ambulance and Officer Garcia drew his weapon, as Officer Kassis tried to talk to Mr. Vasquez.

When Mr. Vasquez rolled over and sat up, the officers were concerned for the residents living in Apartment No. 3. Officer Kassis believed that Officer Garcia was close enough to provide protection if Mr. Vasquez was going to further hurt himself or others.

As the other officers approached and stood together in the breezeway, Officer Kassis was concerned about “congestion” of the officers if there was an incident. Officer Kassis tried to maintain eye contact and calm Mr. Vasquez. Officer Kassis asked him where he lived. Mr. Vasquez told Officer Kassis that he lived in Apartment No. 7 and that he lived with his sister. Officer Kassis asked Officer Salazar to check the apartment for Mr. Vasquez’ sister.³

Officer Kassis saw Mr. Vasquez roll over onto his stomach and push the knife deeper into his neck. Mr. Vasquez then rolled back into a seated position and pulled the knife out. Mr. Vasquez held the knife with his right and left hand.

Officer Kassis felt that Mr. Vasquez was more aggressive towards Officer Garcia, and Officer Kassis worked on keeping Mr. Vasquez’ attention focused on himself.

Officer Mark Gonzalez

Officer Mark Gonzalez and his partner Officer Santoyo were assigned to North Hollywood Division patrol. That evening the partners determined that Officer Gonzalez would be responsible for less lethal weapons. The dispatch call advised the officers that the incident involved an “edged weapon.” Based on the call information, Officer Gonzalez took his 40mm.

³ Officer Salazar checked Mr. Vasquez’ apartment and noted that it had been ransacked and there was a large amount of blood on the floor.

When he arrived at the apartment complex, Officer Gonzalez was concerned for officer safety because the location provided no areas of protection (i.e. cover) for the officers.

Officer Gonzalez saw Mr. Vasquez was bleeding and holding a knife inserted in his neck. Mr. Vasquez told the officers that he was suffering from a mental illness and that the knife wound was self-inflicted, he told them, “They are targeting me with lasers. They are shooting at me.”

Gonzalez observed that Officer Kassis appeared to be the “contact officer” and Officer Garcia appeared to be the cover officer, off to the side with his weapon drawn, in the low and ready position (i.e. weapon muzzle pointed down). Officer Kassis was on his knee and attempting to build rapport with Mr. Vasquez. However, Mr. Vasquez was uncooperative and refused to take his hands off the knife.

The paramedics arrived and waited outside the apartment complex. Sergeant Andreas put his hand on Officer Gonzalez’ shoulder and told him, “Hey, if this guy gets up . . . and approaches officers, we’re going to 40 millimeter him.” Officer Gonzalez responded, “Roger that, sir.”

Sergeant Andreas took over the role of contact officer and began giving Mr. Vasquez orders. Mr. Vasquez made several attempts to get up and Andreas pointed to Officer Gonzalez’ 40mm and told Mr. Vasquez, “Hey, if you do get up and approach officers, you’re going to get hit with [the 40mm] and it’s going to hurt.”

After being tased Mr. Vasquez “immediately stood up” and “gained distance” on the officers [Mr. Vasquez was able to get within approximately nine feet of Officer Garcia before he shot him a second time]. (*Figures 11 and 12.*)

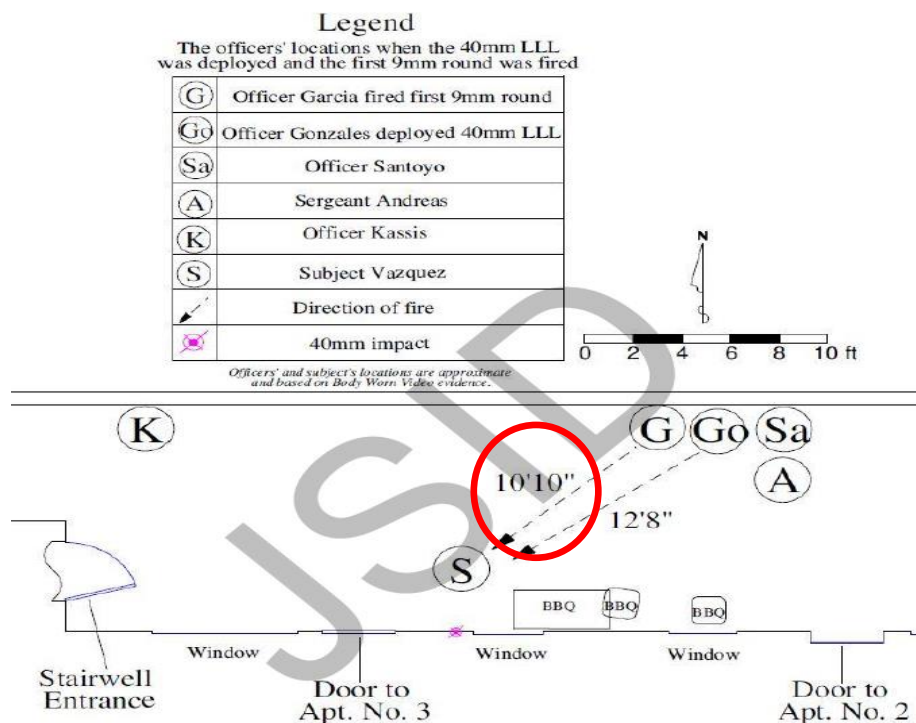


Figure 11: Distance between Mr. Vasquez and the officers, when he was shot with the 40mm.

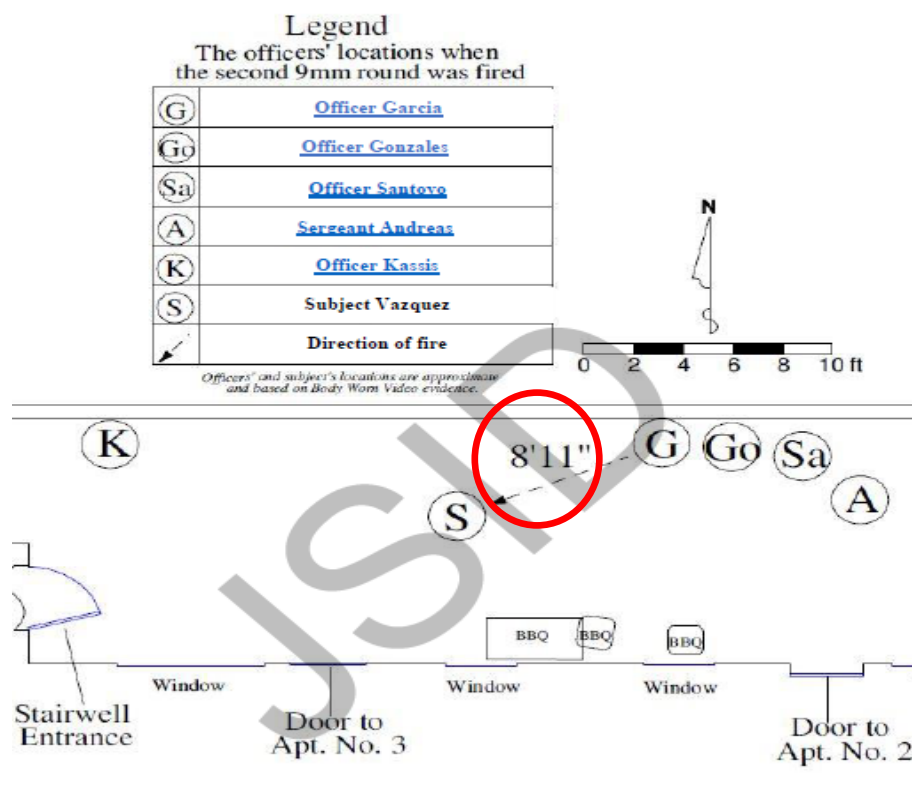


Figure 12: Mr. Vasquez was able to close the distance of two feet (2ft.), between him and Officer Garcia before he was shot a second time with the 9mm handgun.

Officer Gonzalez told investigators he did not have time to warn Mr. Vasquez before firing the 40mm, “It [was not] feasible since he was advancing at officers so quickly. . .” Officer Gonzalez believed that Mr. Vasquez “[moved] towards Garcia, who had his gun drawn out [sic].”

Utilizing the optic sights, Officer Gonzalez fired his 40mm at Vasquez’ “navel area” from “six feet away” [actual distance was 10 feet and 10 inches]. Officer Gonzalez was unsure if he hit Mr. Vasquez, but he saw him fall. Officer Gonzalez was not immediately aware that Garcia had fired his weapon.

Afterwards, he heard Sergeant Andreas “say some tactical language,” and Officer Gonzalez concluded that Officer Garcia had fired his service weapon and shot Mr. Vasquez, at the same time Officer Gonzalez fired the 40mm. Officer Gonzalez told investigators, “I don’t recall [Mr. Vasquez] ever taking his hand off the knife until lethal force was used.”

Sergeant Thomas Andreas

Sergeant Andreas arrived at the scene. He stood on one side of Mr. Vasquez, along with Officer Garcia, Officer Gonzalez, and Officer Santoyo. The paramedics arrived but remained on standby while Mr. Vasquez was in control of the knife and “self-mutilating.”

Sergeant Andreas told Officer Gonzalez, “Hey, if he stands up and comes – takes one step towards us, hit him with the 40 millimeter, okay? In the interest to preserve his life.” It

appeared to Sergeant Andreas that Mr. Vasquez was rolling on the ground and using the ground to push the knife farther into his neck.

While seated upright, Sergeant Andreas believed Mr. Vasquez looked like he was getting ready to lunge at officers. Sergeant Andreas believed that Mr. Vasquez was going to create a “suicide by cop scenario.” Sergeant Andreas told Mr. Vasquez to “Stay down. Don’t get up.” Sergeant Andreas told Officer Santoyo to get ready to tase Mr. Vasquez, hoping to disable Mr. Vasquez by using the taser as the element of surprise. Officer Santoyo deployed the taser, but it was ineffective.

Mr. Vasquez immediately stood up and lunged for Officers Garcia and Gonzalez. Sergeant Andreas yelled, “Hit him! Hit him!” and Officer Gonzalez fired the 40mm. A fraction of a second later, Officer Garcia shot Mr. Vasquez. Once officers saw that he was no longer holding onto the knife, they took him into custody and the paramedics moved in to treat him. (*Figure 10.*)

Civilian Witnesses

██████████

██████████ heard someone running up and down the breezeway, next to his window at 2:00 a.m. He thought the person sounded “injured” and he heard something metal, dropped on the ground. When he looked through his blinds, he saw something metal and bloody on the ground. He saw the police arrive and heard them try to help [Mr. Vasquez]. “The officer . . . kept repeating that they were trying to help him [Mr. Vasquez].” He heard two gunshots and waited.

At approximately 3:00 a.m., officers came to his door to let him know a shooting had occurred. When he looked outside, he saw the “weird-shaped knife” on the ground in front of his door. (*Figure 14.*)

LAFD Captain Scott Eyer

Captain Eyer responded to the location for a “behavioral call.” He was told, [Mr. Vasquez] stabbed himself in the neck and officers were talking to him. While waiting to approach, he “saw and a scuffle . . . and saw [Mr. Vasquez] lunging at them [the officers] . . . [when he] heard a couple of pops, pop-pop.”

As he approached Mr. Vasquez, he saw him laying face down. When they turned him over, Captain Eyer saw “a knife . . . a footlong sticking out of his neck.” (*Figure 10.*) As Mr. Vasquez “wiggled around” the knife came out and Captain Eyer placed it to the side.

Mr. Vasquez was alive and combative, yelling at the paramedics. They took him to the hospital, and when they arrived Mr. Vasquez began “yelling . . . and cursing” at hospital staff.

Captain Eyer recalled treating Mr. Vasquez on a prior occasion for a similar “behavioral type episode.”

██████████. told investigators that she shared an apartment with her brother, Mr. Vasquez. She told the investigators that Mr. Vasquez was depressed because he lost his job and broke up with his girlfriend of two years. He attempted suicide several times, and at the time of the incident, he was taking medication for depression. All of the prior suicide attempts involved self-mutilation with a knife.

Injuries to Edwin Vasquez

LAFD paramedics arrived at the location at 2:40 a.m. and began treating Mr. Vasquez at 2:46 a.m., after Mr. Vasquez was disarmed. Mr. Vasquez refused all assessment and treatment by the paramedics and was transported to Cedars Sinai Medical Center. He was “hostile and combative” with the paramedics and in the emergency room and refused all care, despite having multiple injuries. Mr. Vasquez was placed in restraints and given a sedative, and then treated for his injuries.

He underwent surgery at 4:23 a.m. for traumatic hemorrhagic shock caused by multiple lacerations to his neck and gunshot wounds to his left upper abdomen, right wrist, and right groin by Doctor Rex Chung. Mr. Vasquez, who has a history of mental illness, was also treated for an episode of recurrent major depressive disorder with psychotic features and mood disorder with methamphetamine use. Mr. Vasquez told physicians that he hears voices telling him, “You should kill yourself” and that at the time of the incident, he heard voices telling him to kill himself. Mr. Vasquez was discharged from the hospital on May 3, 2021.

Toxicology

Hospital toxicology results indicated that Mr. Vasquez was suffering from acute intoxication from ingestion of amphetamines, benzodiazepines, cannabinoids, and fentanyl which contributed to “suicidal ideation . . . and agitation attributed to encephalopathy.”

Forensic Evidence

Evidence collected at the scene, included two bloody knives, taser prongs, a discharged 40mm LLL foam round, two expended 9mm cartridges, and illegal substances.⁴

The Knives

Two knives were recovered from the incident. (*Figures 13 and 14.*)

The knife used by Mr. Vasquez to stab himself in the neck was recovered from the first-floor breezeway, after the paramedics began treating him. It was a black handled kitchen knife with red stains on the 8-inch blade. (*Figure 13.*)

⁴ Items seized from Mr. Vasquez’ residence, were seized pursuant to a search warrant.

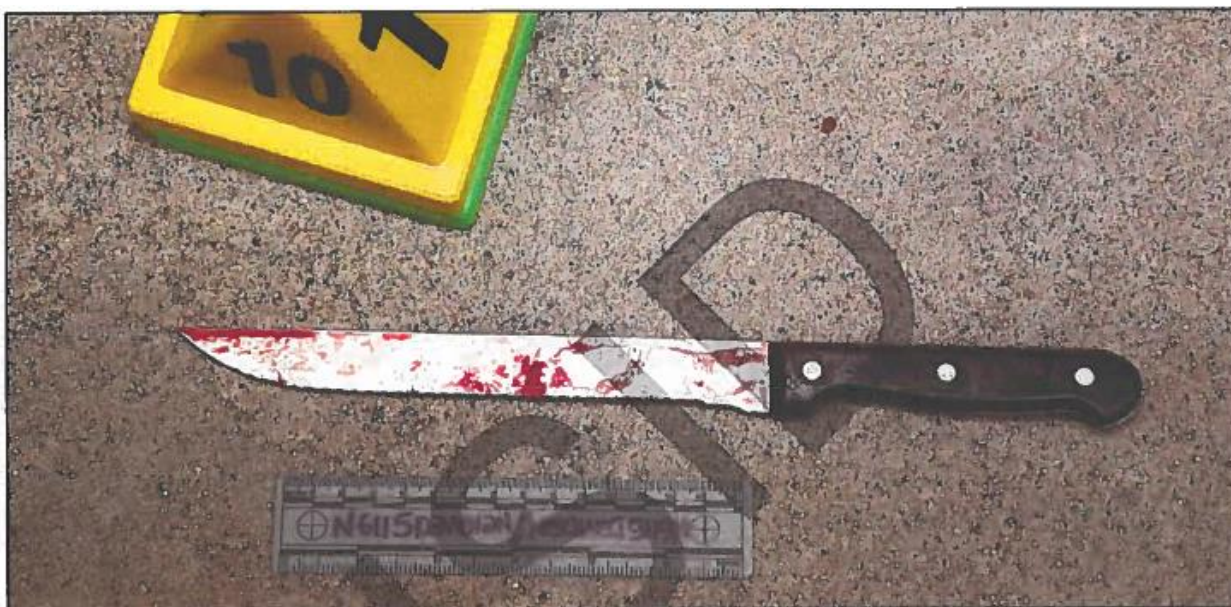


Figure 13: The kitchen knife used by Mr. Vasquez to stab himself in the neck.



Figure 14: The filet knife dropped by Mr. Vasquez, outside the apartment on the third floor.

The second knife recovered was dropped by Mr. Vasquez on the third-floor landing before he hung off the side of the railing. It was a large filet knife with a (bloody) 10-inch metal blade and black handle (Figure 14.)

Edwin Vasquez' Clothing

Multiple defects were observed on Mr. Vasquez' clothing, consistent with being tasered and shot twice.

LEGAL ANALYSIS

The Law

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) &(B).

Deadly force shall be used "only when necessary in defense of human life," and officers "shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Penal Code section 835a(a)(2).

"A threat of death or serious bodily injury is 'imminent' when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed." Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all 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, are taken into consideration. Penal Code section 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

Analysis

The evidence suggests that on the night of the incident, Mr. Vasquez was suffering from a significant mental health event coupled with illegal substance abuse, that altered his perception of reality. While armed with multiple knives, he behaved erratically, putting himself in life threatening danger by hanging off the railing of the third-floor landing by one arm and stabbing himself in the neck. He told the officers that people were "fucking with me" and "targeting me with lasers." Mr. Vasquez believed the people who were harming him were present in the breezeway with him.

Mr. Vasquez told them “I’ve lost everything . . . You gotta shoot me.” The officers believed that Mr. Vasquez was going to lunge towards Officer Garcia to create an imminent threat and a “suicide by cop” scenario.

The officers made a tactical decision to use nonlethal force starting with tasing Mr. Vasquez, hoping to disable him long enough for officers to take him into custody and render aid. Officer Santoyo deployed the taser, but it was ineffective and Mr. Vasquez was able to jump to his feet while holding the knife.

When he charged in the direction of Officers Garcia and Gonzalez, Officer Gonzalez fired the 40mm, but missed Mr. Vasquez and hit the wall behind him. Despite the officers attempt to use less lethal force, immediately after being tased, Mr. Vasquez came within striking distance (10 feet) of the officers in the narrow breezeway.

Mr. Vasquez closed the distance by two more feet after Officer Gonzalez fired the 40mm. Mr. Vasquez was less than nine feet from the officers, before he was shot with the 9mm the second time. During that time, Mr. Vasquez never removed his grip on the knife until lethal force was used.

Based on the totality of the circumstances, the evidence supports a reasonable belief by Officer Garcia, that after a series of unsuccessful uses of nonlethal force, it was necessary for Officer Garcia to use lethal force against Mr. Vasquez to protect himself and Officer Gonzalez from an imminent threat of death or serious bodily injury.

CONCLUSION

For the foregoing reasons, we find that Officer Garcia’s use of deadly force was reasonable under the circumstances and he acted lawfully in self-defense and in defense of others.