

Fatal Officer Involved Shooting of Mariela Cardenas

Los Angeles Police Department

Officer Jacqueline McBride, #44671

Officer Miguel Salazar, #39782

Officer Preston Moseby, #44995

J.S.I.D. File #23-0048



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

July 30, 2024

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: Fatal Officer Involved Shooting of Mariela Cardenas
J.S.I.D. File #23-0048
L.A.P.D. File #F010-23

DATE: July 30, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney’s Office has completed its review of the February 22, 2023, fatal shooting of Mariela Cardenas by Los Angeles Police Department Officers Jacqueline McBride, Miguel Salazar, and Preston Moseby. We have determined that Officers McBride, Salazar, and Moseby acted in lawful self-defense and defense of a third party when they fired their duty weapons. We further conclude, based on the totality of the circumstances, that the officers reasonably believed that the use of lethal force was necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person.

The District Attorney’s Command Center was notified of the shooting on February 22, 2023, at 8:54 p.m. The District Attorney’s Response Team responded and was given a briefing and walk-through of the scene at 10:33 p.m. by LAPD Force Investigation Division Lieutenant Anthony Ljubetic.

The following analysis is based on body worn camera video (BWV), digital in car video system (DICVS), investigative reports, forensic reports, audio recordings, photographs, and an autopsy report submitted to this office by LAPD Force Investigation Division Detective J. Macchiarella on March 27, 2024. No compelled statements were considered as part of this analysis.

INTRODUCTION

On February 22, 2023, at 7:53 p.m., the Los Angeles Police Department (“LAPD”) received several 9-1-1 calls, reporting that an armed female, later identified as Mariela Cardenas, was pointing a handgun at bystanders on Silver Lake Boulevard. Officers Salazar and McBride were the first to arrive at the scene at 7:57 p.m. The officers saw Cardenas running southbound on Silver Lake Boulevard holding what they believed to be a revolver. Salazar and McBride exited their vehicle and told Cardenas to stop and raise her hands as she ran past their vehicle. Cardenas ignored the commands. Officers Pham and Moseby arrived in a second LAPD vehicle and stopped in front of Cardenas. Salazar alerted Pham and Moseby that Cardenas had a gun.

Suddenly, Cardenas turned her upper body back toward the direction from which she had just run. Cardenas extended her arm and pointed the revolver in the direction of Officer McBride. Officers McBride, Salazar, and Moseby fired multiple times at Cardenas, who fell to the curb and dropped the weapon she was holding. The weapon was a pellet gun, designed to resemble a revolver. LAPD Lieutenant Ljubetic consulted with the California Department of Justice about this incident; however, that office declined to review this case pursuant to Assembly Bill 1506 because Cardenas's weapon fired metal ball bearings as opposed to plastic projectiles. Officers and paramedics rendered aid to Cardenas at the scene; however, she was pronounced deceased after being transported to the hospital.

FACTUAL ANALYSIS

On February 22, 2023, residents noticed Cardenas tampering with vehicles near London Street and Silver Lake Boulevard at approximately 7:45 p.m. One resident, ■■■, confronted Cardenas about tampering with his vehicle. Cardenas yelled at ■■■ and walked away. ■■■ followed Cardenas to a gas station at the corner of Bellevue and Silver Lake Boulevard, a short distance away.

At the gas station, Cardenas removed what ■■■ believed to be a revolver from her coat and pointed the weapon at ■■■. In fear, ■■■ ran away, but maintained sight of Cardenas and called 9-1-1 at 7:53 p.m. ■■■ witnessed Cardenas point the weapon at an unknown female who fled into the station's convenience store. Next, Cardenas pointed the weapon at a group of bystanders who all fled the location. Cardenas then turned her attention back to ■■■ and chased ■■■ southbound on Silver Lake Boulevard. ■■■ yelled for help to the 9-1-1 operator as he fled under the freeway overpass. After losing sight of Cardenas, ■■■ heard sirens and later gun shots, but did not witness the shooting.

Another witness, ■■■, followed Cardenas onto Silver Lake Boulevard from London Street. ■■■ saw Cardenas remove what she believed to be a revolver from her coat and point it at ■■■. ■■■ watched Cardenas enter a gas station and point the weapon at an unknown female who fled into the convenience store. Finally, ■■■ saw Cardenas point the weapon directly at ■■■ again and chase him south on Silver Lake Boulevard. ■■■ heard Cardenas tell ■■■, "I will kill you." Cardenas continued to point the weapon and pursue ■■■ toward the underpass. ■■■ lost sight of Cardenas but reported her observations to the 9-1-1 operator.¹

At 7:54 p.m., the LAPD communications division broadcast the following alert to officers: "Rampart units, ADW [assault with a deadly weapon] suspect there now. Silver Lake and Bellevue, in front of Target. Suspect female, Hispanic, trench coat, pointing revolver at passersbys." Salazar [driver] and McBride [passenger] drove in a marked LAPD vehicle toward the scene. Salazar's BWV recorded the conversation between Salazar and McBride as they responded, prior to the encounter with Cardenas. They discussed tactics and preparations, including their roles and the use of less lethal force such as "the 40 [40 millimeter less lethal

¹ At least two other witnesses called 911 and reported a female pointing a revolver at bystanders on Silver Lake Boulevard.

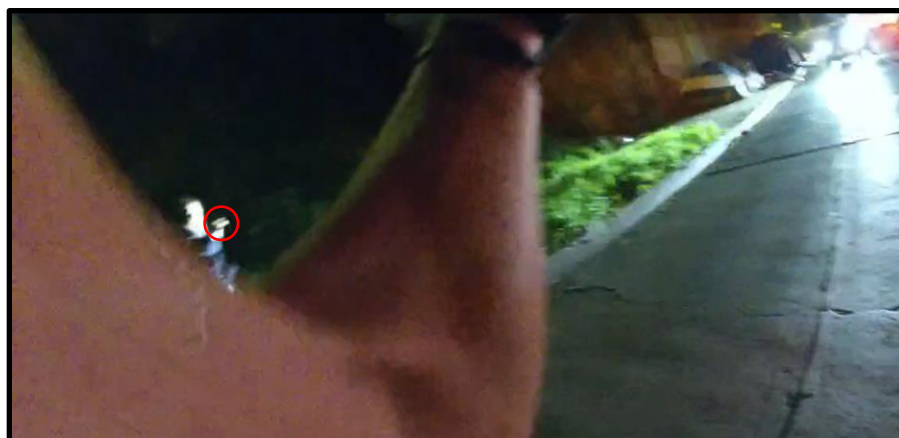
launcher] and tasers.” Salazar instructed McBride to provide clear verbal commands to the subject.

As Salazar and McBride drove north on Silver Lake Boulevard, they observed Cardenas running towards them on the east sidewalk just north of the 101-freeway overpass. When Cardenas got closer, the officers noticed what they believed to be a black revolver in Cardenas’s right hand. Salazar stopped the vehicle and the officers exited.



DICVS from first responding LAPD vehicle depicts Cardenas with the weapon running southbound Silver Lake Boulevard.

McBride exited on the passenger side, closest to Cardenas. McBride drew her service weapon and approached Cardenas. McBride shouted, “Hey, put your hands up, now! Now! Now!” Cardenas continued to run southbound. McBride continued to issue commands as she followed Cardenas.



McBride’s BWV depicts Cardenas looking at McBride and running southbound with the weapon.

Salazar exited the vehicle and also issued commands for Cardenas to raise her hands multiple times. As Cardenas ran past the LAPD vehicle, Salazar moved from behind the driver’s side door to the rear of the vehicle to maintain sight of Cardenas. At this point, Officers Pham [driver] and Moseby [passenger] arrived in the second LAPD vehicle. Pham told investigators

that he could see Cardenas running along the east curb with a black revolver with wooden grips in her right hand.² Pham stopped the patrol vehicle in the roadway just south of Cardenas. Salazar yelled to Pham and Moseby, “She has a handgun.” Pham told investigators that he heard Officer Salazar’s alert regarding the gun. Moseby exited the vehicle first, followed by Pham. Both officers stood behind one of the open front doors of their LAPD patrol vehicle for cover.

While running between both sets of officers, Cardenas turned her upper body backward to face McBride, who continued to follow Cardenas. Next, Cardenas extended her right arm with the revolver in her right hand and pointed it at McBride. Simultaneously, McBride, Salazar, and Moseby fired multiple rounds at Cardenas. Cardenas fell onto the east curb; the weapon dropped from her hands, bounced once on the curb, and came to rest in the street next to the curb. Salazar requested a rescue ambulance for Cardenas.



Salazar’s BWV depicts Cardenas turning her upper body and pointing the weapon at McBride.



Salazar’s BWV depicts Cardenas on the east curb with the weapon bouncing on the curb.

Immediately after the shooting, LAPD officers rendered aid to Cardenas until Los Angeles Fire Department (“LAFD”) personnel arrived. LAFD personnel transported Cardenas to Los Angeles

² Officer Pham provided a statement which was considered as part of this evaluation. Officers McBride, Salazar, and Moseby did not provide voluntary statements.

General Medical Center where she was pronounced deceased. An autopsy revealed that Cardenas suffered four gunshot wounds to the following areas: right lateral chest, right posterior upper extremity, and two separate wounds to the right shin/calf. The coroner concluded that Cardenas died as a result of multiple gunshot wounds. A toxicology analysis documented the presence of amphetamine and methamphetamine in Cardenas's blood at the time of her death.

After inspecting each of the officers' service weapons that were fired during the incident, investigators determined that McBride fired two rounds, Salazar fired five rounds, and Moseby fired four rounds. Investigators approximated the distance of each officer to Cardenas when shots were fired. McBride was estimated to be 43 feet from Cardenas. Salazar was estimated to be 41 feet from Cardenas. Moseby was estimated to be 26 feet from Cardenas. Personnel from the Forensic Science Division, Firearms Analysis Unit ("FAU") conducted an examination for ballistic impacts, trajectories, and projectiles. FAU employees collected Cardenas's pellet revolver, 11 9-millimeter cartridge casings, and four bullet fragments.

Investigators determined Cardenas was armed with a Crossman pellet revolver, .177 BB caliber, model 38T. The weapon was in the street at curbside, approximately five feet from where Cardenas fell. The weapon did not have any obvious characteristics that would make it easily distinguishable from a real revolver such as an orange tipped barrel. In fact, the pellet gun realistically simulated a real revolver with wooden grips and detail to the barrel, cylinder, and hammer.



Crossman pellet revolver, carried by Cardenas.

LEGAL ANALYSIS

A peace officer is justified in using deadly force upon another person only 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 to 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 § 835a(b), (c)(1)(A), and (c)(1)(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 the objectively reasonable officer." Penal Code § 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 § 835a(e)(2).

“Totality of the circumstances” means 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. 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 § 835a(a)(4) and (e)(3).

MCBRIDE AND SALAZAR

Multiple 9-1-1 callers reported that Cardenas was moving about the neighborhood, pointing a handgun at numerous people. The callers expressed genuine fear that Cardenas posed a significant danger. The responding officers received a communication that listed the subject as a possible assault with a deadly weapon suspect – pointing a revolver at bystanders. Prior to their arrival, McBride and Salazar rehearsed potential scenarios for use of less lethal options and an approach strategy. Upon arrival, both officers saw Cardenas holding what they believed to be a revolver in her right hand, running southbound on Silver Lake Boulevard.

Once the officers arrived, the events unfolded quickly. Five to six seconds elapsed from the time the officers stepped out of their patrol vehicle until the first shots were fired. Despite the speed with which the events took place, Salazar and McBride issued clear and continuous verbal commands for the subject to stop and raise her hands. Cardenas disregarded all instructions. Instead, while still running southbound, Cardenas turned her torso backward to face officer McBride. Simultaneously, Cardenas extended her right arm behind her and pointed her weapon toward McBride. McBride and Salazar utilized restraint and did not fire their service weapons until Cardenas pointed the replica weapon at Officer McBride.

MOSEBY AND PHAM

From his passenger seat, Moseby was in position to see Cardenas running just ahead of his vehicle. Pham stated that he could clearly see Cardenas holding a revolver with wooden grips in her right hand as she ran toward them, and both officers had a similar vantage point. Moments before the shooting, Salazar warned Moseby and Pham by shouting, “She has a handgun.” At this point, Moseby would have an unimpeded view of Cardenas turning to point what he believed to be a revolver at McBride. The evidence supports a reasonable conclusion that Moseby believed McBride’s life was in danger.

Based on the totality of the circumstances known to the officers at the time of the incident and in the preceding moments, the officers could reasonably believe that the use of deadly force was necessary to defend against an imminent threat to themselves and others. These conclusions are

not altered in hindsight after discovering that the item possessed by the subject was in fact a realistic replica of a handgun.

CONCLUSION

For the foregoing reasons, we find that McBride, Salazar, and Moseby acted lawfully in self-defense and in defense of a third party.