

**Fatal Officer Involved Shooting of Joseph Burciaga  
West Covina Police Department**

**Officer Esteban Mendez, #420**

**J.S.I.D. File #21-0494**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**September 3, 2024**

**MEMORANDUM**

TO: CHIEF RICHARD BELL  
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Joseph Burciaga  
J.S.I.D. File #21-0494  
L.A.S.D. File #021-00116-3199-013

DATE: September 3, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 22, 2021, fatal shooting of Joseph Burciaga by West Covina Police Department (WCPD) Officer Esteban Mendez. It is our conclusion that the People are unable to prove beyond a reasonable doubt that Mendez did not act in self-defense.

The District Attorney's Command Center was notified of this shooting on November 22, 2021, at approximately 1:36 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to this office on November 22, 2022, and further surveillance video submitted on May 14, 2024, by Detectives Teri Bernstein and Anthony Delia of the Los Angeles Sheriff's Department (LASD) Homicide Bureau.

**FACTUAL SUMMARY**

On November 22, 2021, the United States Marshals Pacific Southwest Regional Fugitive Task Force (USMRTF) conducted an operation to apprehend Joseph Burciaga. Burciaga had a warrant for his arrest for violating his felony probation and was further wanted for a violation of California Penal Code (PC) section 245(a)(2) – Assault With a Firearm.

Mendez was a peace officer employed by WCPD and a member of the USMRTF. On November 22, 2021, he attended a briefing regarding Burciaga. The information presented at the briefing included that Burciaga was a known and documented Puente 13 criminal street gang member, was likely armed, and had a criminal history that included possession of firearms.

At approximately 9:00 a.m. on November 22, 2021, the USMRTF began surveillance of an apartment complex in West Covina. At approximately 12:15 p.m., two individuals, a male and a female, exited the apartment complex and entered a black BMW. The BMW was registered to [REDACTED] believed to be an associate of Burciaga.

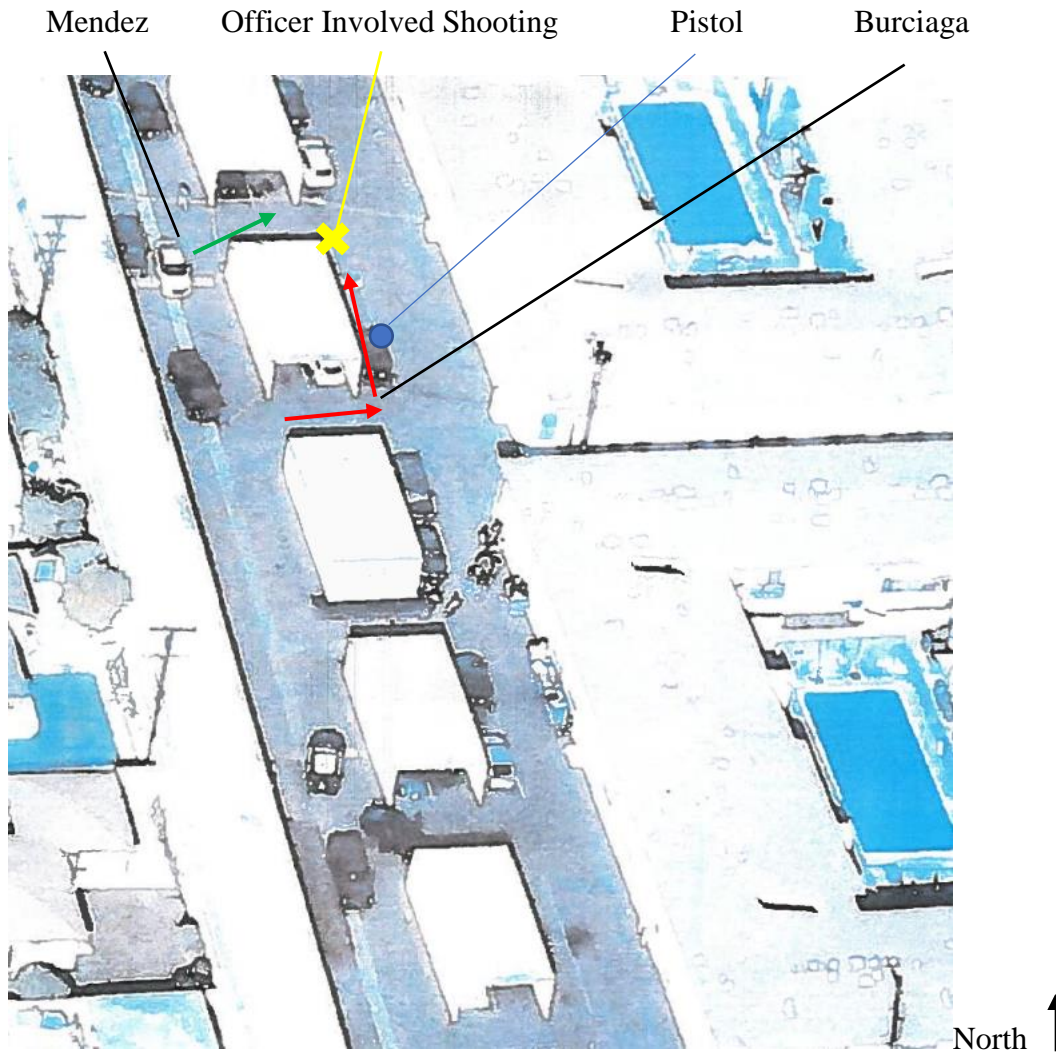
USMRTF members followed the BMW to a nearby gas station and surreptitiously attempted to identify the occupants of the BMW. Immigration and Customs Enforcement (ICE) Special Agent Nick Gonzalez radioed that he believed the male was Burciaga, and Mendez radioed that the female was [REDACTED].

The BMW drove away from the gas station and conducted a series of turns and U-turns before eventually arriving back at the apartment complex. Mendez radioed that the male was Burciaga.

Mendez radioed for the USMRTF team to detain and arrest Burciaga when the BMW parked in the apartment complex. As the BMW drove through the parking lot of the apartment complex, Burciaga exited the vehicle from the passenger door and walked behind the BMW. Pasadena Police Department (PPD) Sergeant Bobby Crees was following the BMV in his vehicle and stopped approximately five to eight feet behind the BMW. Crees exited his vehicle, drew his firearm, and told Burciaga, "Stop, police." Burciaga looked at Crees and responded, "Fuck you."

The parking lot of the apartment complex contains multiple, stand-alone carports with roadways in between them. Burciaga ran eastbound along the south side of one of the carports towards the apartment complex. As he ran, Burciaga retrieved a handgun from his waistband. Crees yelled, "Gun, gun, gun!"

Mendez exited his vehicle on the north side of the carport. Mendez was wearing a clearly marked bulletproof vest with "US MARSHALS" lettering on the front. Burciaga turned left at the southeast corner of the carport and moved north along east side of the carport.



Overview still photograph showing the apartment parking lot with Mendez and Burciaga's approximate travel routes and the approximate location of Burciaga's pistol.

As Burciaga approached the northeast corner of the carport, Mendez fired 14 rounds from his duty weapon, a .45 caliber Glock semi-automatic handgun. Burciaga was struck multiple times and fell to the ground at the northeast corner of the carport.

Officers gave commands to Burciaga to show his hands but Burciaga did not respond. PPD Officer Joe Reinbold fired a single 40mm less-lethal round that struck Burciaga in the shoulder. Burciaga did not respond. Officers approached Burciaga, handcuffed him, and began to perform life-saving measures. West Covina Fire Department (WCFD) personnel arrived and pronounced Burciaga deceased.

Investigators recovered a loaded black Glock 9mm semi-automatic pistol approximately 12 feet south of Burciaga, and Burciaga was wearing a black plastic handgun holster around his waist. The holster had blood spatter on it while the pistol did not.



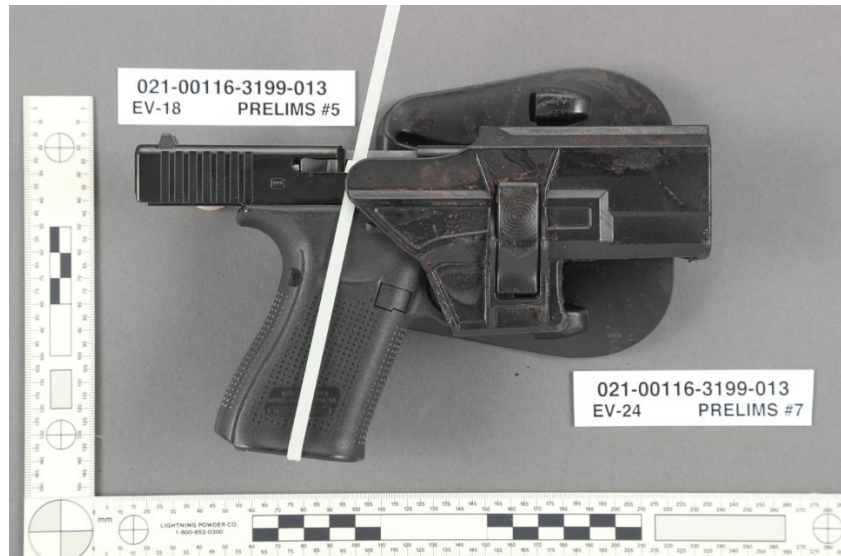
Still photo of the Glock 9mm semi-automatic pistol recovered south of Burciaga.



Still photo of the Glock 9mm semiautomatic pistol with the magazine removed.



Still photo of the pistol holster recovered from Burciaga's waist.



Still photo of Burciaga's pistol fitted into Burciaga's holster.

DNA analysis determined that DNA on the pistol and magazine recovered matched Burciaga's DNA.

Investigators recovered multiple videos from both the apartment complex and civilians, however none of the video captured Burciaga or Mendez during the relevant portions of the incident.

Investigators interviewed numerous civilian witnesses, however none of them observed Mendez fire his weapon.

None of the members of the USMRTF team were equipped with body worn video cameras. The apartment complex had multiple video surveillance cameras but none of them captured Mendez firing his weapon or Burciaga running with a firearm.

On November 25, 2001, an autopsy was conducted, and the medical examiner determined that Burciaga died as a result of multiple gunshot wounds. Burciaga was struck 11 times: eight gunshot wounds in the back, two in the chest, and one in the side.

## **LAW ENFORCEMENT STATEMENTS**

### ***West Covina Police Department Officer Esteban Mendez***

Mendez gave a Public Safety Statement. Mendez stated that he was the only officer involved in the shooting and he was using his primary duty weapon, a Glock 21 .45 caliber pistol. Mendez fired in a southeast direction at one suspect. Mendez and members of the USMRTF team were attempting to take a parolee-at-large suspect into custody. Mendez identified Burciaga and stated that Burciaga was armed with a firearm.

### ***Pasadena Police Department Sergeant Bobby Crees***

Crees was interviewed on November 22, 2021, by Delia and Bernstein. Crees was assigned to the USMRTF. Crees conducted surveillance of the apartment complex and followed the BMW as it drove to the gas station and back to the apartment complex. During the surveillance of the BMW, Crees heard Mendez positively identify Burciaga as the passenger in the BMW.

Crees followed the BMW into the parking lot. Behind Crees and also following the BMW was Reinbold, and behind Reinbold was Mendez. The BMW drove west through the parking lot and turned south. When Crees turned south to follow, he no longer saw the BMW and assumed the vehicle had parked in a parking stall. Mendez radioed that the BMW was now behind Crees, and Crees drove around a carport to position himself behind the BMW again.

Crees saw Burciaga exit the front passenger door of the BMW. Crees stopped his vehicle approximately five to eight feet behind the BMW. Burciaga walked around the rear of the BMW. Crees exited his vehicle and pulled his firearm from his vest. Crees told Burciaga, "Stop, stop!" Burciaga looked at Crees and stated, "Fuck you!" Burciaga ran eastbound. Crees saw Burciaga use his left hand to pull up the bottom of his shirt. Burciaga turned northbound around a carport corner and retrieved a firearm from his waistband with his right hand.

Crees ran after Burciaga and yelled, "Gun, gun gun!" Crees heard seven to ten gunshots. Crees stopped at the corner of the carport and yelled to Mendez to ascertain if he was injured. Crees went around the corner of the carport and observed Burciaga lying on the ground face down with his hands under his chest. Crees observed a gun on the ground next to the carport wall.

Crees yelled for Burciaga to show his hands but Burciaga did not respond. Crees directed Reinbold to fire a 40mm less-lethal sponge round at Burciaga. Reinbold fired a single 40mm less-lethal round that struck Burciaga on the shoulder. Burciaga did not respond. Officers approached Burciaga behind shields, handcuffed him, and began to perform lifesaving measures.

## CIVILIAN STATEMENTS

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■■■ was interviewed on November 23, 2001, by WCPD Officer Steven Dettor. ■■■ saw Burciaga running through the parking lot from her bedroom window. ■■■ was standing on her bed. As Burciaga ran past her window, ■■■ quickly moved to her kitchen and looked out of the window. Burciaga was being chased by police officers. She did not see anything in Burciaga's hands. ■■■ knew they were police officers because they had marked vests and guns. ■■■ saw Burciaga run in between parking stalls in the lot and then she heard gunshots. She observed the officers approach Burciaga and render aid to him.

■■■ captured a portion of the incident on video, however, the video depicts only the aftermath of the incident where officers approach and render aid to Burciaga. In the video, Burciaga is lying on the ground and several USMRTF officers are standing to the south. They approach Burciaga behind tactical shields, roll Burciaga onto his back, and begin performing lifesaving measures. A firearm is on the ground approximately 12 feet south of Burciaga. ■■■ appears to be recording from approximately 30 to 40 feet away, from the second floor of the apartment complex.

## LEGAL ANALYSIS

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 § 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.

A peace officer is justified in using deadly force upon another person 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(c)(1)(A) & (B).

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).

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 §§ 835a(a)(4) & (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 § 835a(a)(4).

The available evidence in this case indicates that Mendez encountered Burciaga suddenly as Burciaga was running through the parking lot. Mendez had exited his vehicle after a vehicle pursuit and was running eastbound along one side of a carport in an apartment complex parking lot. Burciaga was running northbound along another side of the same carport. Mendez and Burciaga met each other at the corner.

Burciaga was likely armed with a 9mm pistol. Crees observed Burciaga retrieve a 9mm handgun and observed Burciaga flee with the handgun in his right hand. Crees yelled, "Gun, gun, gun!" Mendez knew that Burciaga was wanted for a violation of PC 245(a)(2) – Assault With a Firearm, and that Burciaga was attempting to escape by running from law enforcement. Burciaga's 9mm pistol was recovered approximately 12 feet south of where Burciaga fell. No explanation exists as to why the pistol was 12 feet away from where Burciaga fell; however the pistol had Burciaga's DNA on it. The plastic pistol holster had blood spatter on it while the pistol itself did not. Burciaga was struck with two rounds in his chest, one round in his side, and eight rounds in his back.

No video exists of Burciaga running through the parking lot, Burciaga and Mendez encountering each other at the corner of the carport, or of Mendez firing his weapon. Apart from Mendez, who gave only a cursory Public Safety Statement, no witnesses observed the events at the corner of the carport. The available evidence indicates that Burciaga, a felon wanted for both a probation violation and PC 245(a)(2), was armed with a handgun in his right hand as he ran from Crees, ran northbound alongside the carport, and encountered Mendez.

Because Mendez did not give a statement, and there are no other witnesses to the shooting, no explanation exists as to why Burciaga's firearm lay 12 feet from where his body came to rest after the shooting. Burciaga's DNA was on the pistol. The plastic pistol holster had blood spatter on it while the pistol did not, which may indicate that Burciaga discarded the pistol prior to encountering Mendez. However, assuming Burciaga dropped the firearm 12 feet away from where he encountered Mendez moments later, in light of the aforementioned circumstances, the People would be unable to prove beyond a reasonable doubt that Mendez did not act in self-defense in this situation.

## **CONCLUSION**

The People are unable to prove beyond a reasonable doubt that Mendez did not act in self-defense when he used deadly force.