

**Non-Fatal Officer Involved Shooting of Marco Antonio Diaz
Los Angeles Police Department**

**Officer Kaleigh Edwards #40564
Officer Heriberto Crisantos-Garcia #39541**

J.S.I.D. File #21-0104



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

September 6, 2023

MEMORANDUM

TO: CAPTAIN OMAR BAZULTO
Los Angeles Police Department
Force Investigation Division
100 W. 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 Marco Antonio Diaz
J.S.I.D. File #21-0104
L.A.P.D. File #F014-21

DATE: September 6, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 16, 2021, non-fatal shooting of Marco Antonio Diaz by Los Angeles Police Department (LAPD) Southeast Patrol Officer Kaleigh Edwards and Community Safety Partnership Bureau (CSPB) Officer Heriberto Crisantos-Garcia. Based on the totality of the circumstances, we find that Officers Edwards and Crisantos-Garcia reasonably believed deadly force against Marco Antonio Diaz was necessary to defendant against an imminent threat of death or serious bodily injury to [REDACTED].

The District Attorney's Command Center was notified of this shooting at approximately 7:00 p.m. on March 16, 2021. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LAPD Lieutenant Brian Reynolds.

The following analysis is based on reports, recorded interviews, dispatch recordings, body worn camera videos (BWV), crime scene diagrams, photographic evidence, and witness statements submitted to this office by LAPD's Force Investigation Division (FID) on July 28, 2022. Edwards' and Crisantos-Garcia's compelled statements were not considered in this analysis.

FACTUAL ANALYSIS

Summary¹

At approximately 5:45 p.m., LAPD Southeast Division received multiple calls regarding an assault with a knife in progress at a transitional sober living residence, called “Success Recovery Center.” The callers indicated that Marco Diaz, a resident of the home, was brandishing a knife, threatening an on-site manager, ██████████, who was barricaded in his bedroom.

Southeast Patrol Officer Edwards and her trainee, Hailie Ruiz, arrived at the location first. While en route, they learned that Diaz was on parole and possibly under the influence of narcotics.² The residence was a two-story duplex with four bedrooms, all located on the second floor. When Edwards and Ruiz arrived, they contacted numerous residents who were outside the location in the front yard. Edwards and Ruiz were joined by CSPB Officers Jacob Rice and Crisantos-Garcia, who also responded to the radio call. While talking to the residents in the front yard, the officers learned that ██████████. was unable to leave his bedroom because Diaz was standing outside ██████████s door with a knife. Edwards called out to the residents still inside to exit. She called out Diaz by his name, but Diaz did not come out.

Resident ██████████. exited the front door and advised the officers that Diaz was upstairs, armed with a knife. ██████████. told the officers, “He’s gonna kick the door in and he’s gonna go after him.” As ██████████. spoke to the officers, the BWV captured a loud noise emitting from the residence.



Figure 1: BWV image depicting Officers Edwards and Ruiz in front of the residence.

¹ The facts in this section are derived primarily from BWV footage.

² This information was gleaned from the radio broadcast which is captured by the BWV audio, as Edwards and Ruiz responded to the location in their patrol car.

Additional officers arrived, including CSPB Officers Deborah Thomas and William Corona, and Southeast Patrol Officer David Torres. Edwards formed a contact team which included herself, Ruiz, Torres, Rice, and Crisantos-Garcia. Ruiz was armed with a 40 millimeter, less-lethal launcher and the other officers were armed with their duty pistols. Rice was also assigned a Taser. As the contact team walked up the stairs, Sergeant Jose Salazar arrived and joined them.

When the officers approached the second floor, they saw Diaz standing in a hallway in front of [REDACTED]'s door. Diaz held two knives—one in each hand. Edwards and Ruiz commanded Diaz to drop the knives. Diaz did not initially comply. Edwards again ordered Diaz to put the knives down and Diaz placed both knives onto the floor and then rose up and placed both hands in the air. Edwards instructed Diaz to walk toward her. Diaz complied but lowered his hands to his sides. Edwards ordered Diaz to keep his hands up. Diaz did not comply. Edwards ordered Diaz to turn around and place both hands on top of his head. Diaz turned but did not place his hands on his head. Diaz walked backward, toward the officers with both hands down at his sides. Edwards ordered Diaz to stop and put his hands on his head. Diaz stopped but did not put his hands on his head. Edwards ordered Diaz to walk backward with his hands on his head, but again, Diaz did not comply. Instead, Diaz took one step away from the officers, toward the knives. Edwards commanded him to stop walking toward the knives. Edwards instructed Ruiz to fire the 40 millimeter at Diaz if he started moving for the knives. Edwards told Diaz, “Don’t take any more steps toward those knives.”

With his back facing the officers, Diaz took another step toward the knives. Ruiz fired the 40 millimeter launcher which caused Diaz to fall forward. He landed in a prone position, on top of the knives. The officers commanded Diaz to show his hands, but Diaz did not comply and remained in a prone position on top of the knives. Crisantos-Garcia gave Diaz commands in Spanish, but he still did not comply. Edwards and Crisantos-Garcia continued giving Diaz commands in both Spanish and English, ordering him to show his hands and step away from the knives.³ Edwards warned Diaz that if he continued “reaching for stuff” the officers may “use more force.”

³ As the officers were attempting to gain compliance from Diaz, the manager, [REDACTED], confirmed that Diaz spoke both Spanish and English.

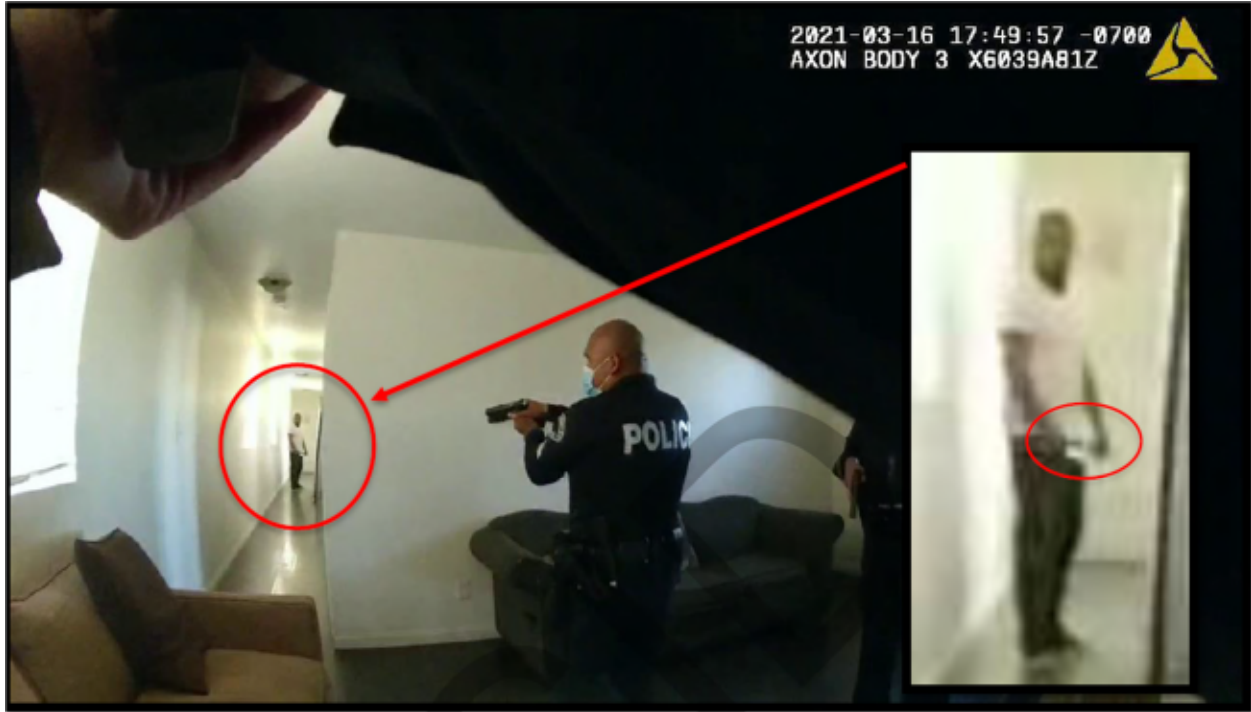


Figure 2: BWV image depicting Diaz when officers first saw him.



Figure 3: BWV image depicting Diaz as he set the knives on the ground.



Figure 4: BWV image depicting Diaz as he walked toward the knives.



Figure 5: BWV image depicting Diaz prone on top of the knives.

Edwards then ordered Diaz to stand up and walk toward her with his hands empty. Diaz got onto his hands and knees but did not stand up fully. Edwards told him that if it hurt to get up, he could crawl toward her. Edwards continued giving commands, but Diaz remained in a kneeling position. Suddenly, Diaz stood up and lunged in the direction of ██████████'s bedroom door, with a knife in his left hand. He forced the door open and entered the room. ██████████'s screams could be heard on the BWV.



Figure 6: BWV image depicting Diaz as he picked up one of the knives and lunged toward [REDACTED]'s door.

Edwards, Crisantos-Garcia, and Ruiz advanced toward Hoshivah W.'s bedroom door. Edwards and Crisantos-Garcia held their duty pistols in shooting positions, while Ruiz stood behind them with the 40 millimeter launcher. Torres, Rice and Salazar followed. As Edwards neared the door of the bedroom, she fired seven rounds at Diaz from the distance of approximately four to five feet. Simultaneously, Crisantos-Garcia fired four rounds at Diaz from approximately three to four feet.⁴ Approximately eight minutes elapsed from when the officers first contacted Diaz to the shooting.

⁴ Due to the positioning of the officers, only Edwards' and Crisantos-Garcia's BWV show views of Diaz during the OIS. Due to the angles of their BWVs, the view into the bedroom is partially obscured.



Figure 7: BWV image depicting seconds before lethal rounds were fired.



Figure 8: BWV image depicting lethal shots being fired.

Diaz was struck by gunfire and fell to the floor. He rolled onto his left side. Diaz held his hands up and officers determined that his hands were empty. The contact team took Diaz into custody without further incident. Paramedics staged nearby arrived at the scene and transported Diaz to Saint Francis Medical Center where he was treated for multiple gunshot wounds. [REDACTED]. [REDACTED] sustained a stab wound to the right side of his head and right ring finger. A knife was recovered from the edge of an overturned table inside [REDACTED]'s room.



Figure 9: Photograph of the knife recovered from ██████████'s room after the OIS.⁵

██████████'s Statement

FID detectives interviewed ██████████ on March 16, 2021 and on May 22, 2021.⁶ ██████████ was the assistant manager of Success Recovery Center and lived on the premises. Diaz was a “client,” who lived at the residence. Before the incident, ██████████ and Diaz got along fine. During the two weeks leading up to the incident, ██████████ noticed that Diaz had been acting “reclusive.” Diaz “would stare kind of blankly,” and have “an angry consonance,” which was unusual. ██████████ was aware that Diaz was having issues with his “baby mama.” Diaz got very defensive when ██████████ mentioned taking an at-home drug test. ██████████ felt that Diaz resented him for bringing up the drug testing.

At approximately 4:30 p.m., ██████████ returned from his day job and walked upstairs. He heard Diaz call to him, “Hey.” ██████████ walked into Diaz’s room and observed Diaz seated in a chair. Diaz invited ██████████ inside. ██████████ asked Diaz if he was okay, and Diaz said, “I’m good now.” ██████████ noted that Diaz appeared to be playing a chess game on his cellphone. Since Diaz loved playing chess, ██████████ perceived this as “a good sign.”

Diaz abruptly changed the conversation and stated, “You know I love my baby mama, right?” While still seated on the chair, Diaz reached toward his bed and retrieved a knife from underneath a blanket. ██████████ only saw the blade of the knife, which was silver. After seeing the knife, ██████████ fled Diaz’s bedroom and closed the door behind him. ██████████ ran to his bedroom, which was just north of Diaz’s. Once inside, ██████████ informed ██████████,

⁵ The blade of this knife was determined to contain DNA, 98% of which matched ██████████'s profile. The handle contained DNA, 94% of which matched Diaz’s profile. ██████████ identified a photograph of this knife as the knife Diaz attacked him with.

⁶ Detectives re-interviewed ██████████ to follow-up on his injuries and take his buccal sample.

his roommate, about what happened. [REDACTED]. then heard a knock on his bedroom door. He asked who was there and heard Diaz's voice say, "Housekeeping," in a playful manner.

[REDACTED]. opened the door and [REDACTED]. observed Diaz standing in the doorway, holding a knife in his right hand. [REDACTED]. asked, "Are you playing?" Diaz responded, "Oh, you think I'm playing?" [REDACTED]. then closed and locked the door. [REDACTED]. and [REDACTED]. discussed calling the police. [REDACTED]. said, "I don't want to stay in this room," and walked out the room. [REDACTED]. closed his door, locked it, and called his manager, [REDACTED]., to explain what happened. Then he called the police.⁷ The 911 operator asked if Diaz was still present, and at the time, [REDACTED]. was not sure where Diaz went.

While waiting in his room for the police to arrive, [REDACTED]. heard footsteps pacing back and forth in front of his locked bedroom door, and surmised it was Diaz. Suddenly Diaz kicked the door open. [REDACTED]. observed a knife in Diaz's right hand. Diaz pointed the blade in [REDACTED].'s direction and stated, "This is for you." [REDACTED]. picked up a hammer in his room which appeared to deter Diaz from approaching further. [REDACTED]. then picked up an office chair with his hands, while still holding the hammer, and held the chair in front of his body as a shield. He was able to close the door on Diaz but realized the door was broken and unable to be locked. [REDACTED]. used another chair to create a barricade. [REDACTED]. called 911 again. He spoke loudly to ensure Diaz heard him. Diaz was still attempting to kick the door open, but [REDACTED]. was able to prevent it from opening.

[REDACTED]. heard the police arrive. He heard the officers attempting to calm Diaz down. The officers gave Diaz many commands, but they were not effective. [REDACTED]. heard the less-lethal launcher deploy and then it was quiet. The officers instructed Diaz to put down the knife. In [REDACTED].'s opinion, the police were "way too nice to somebody with a damn knife." He heard a female officer say, "Crawl back toward my voice."

Suddenly, Diaz pushed [REDACTED].'s door open with his right arm, while holding a knife in his left hand. Diaz stuck his head into the room like "The Shining" and swung the knife "wildly like hell" at [REDACTED]. Fearing he would be stabbed, [REDACTED]. attempted to close the door by pushing on the chairs blocking the door. [REDACTED]. recalled thinking, "You going to get stabbed, but get the door closed." Although moving toward the door was risky because it was closer to Diaz, [REDACTED]. felt he "had to take a stab to get the door closed." As [REDACTED]. attempted to close the door on Diaz, Diaz raised the knife. Fearing Diaz would stab his head, [REDACTED]. lifted his right hand to block the knife as Diaz swung it down on him. Then [REDACTED]. heard gunshots and Diaz fell to the floor.

Diaz swung the knife at [REDACTED]. approximately three to four times before the police shot him. [REDACTED]. sustained lacerations to the right side of his head and right ring finger. [REDACTED]. stated, "[T]he the officers did a damn good job and saved my damn life because he was trying to stab me."

⁷ [REDACTED]. also called 911.

Non-Shooter Officer Statements

The officers who were present but did not use lethal force gave statements. Their statements were consistent with the body worn videos. Due to the fact that Edwards and Crisantos-Garcia were in front of the other officers at the time of the officer-involved shooting, none of the other officers could see Diaz's actions at the time of the shooting.

Diaz's Statement

On April 14, 2021, FID detectives responded to Saint Francis Medical Center and interviewed Diaz. Diaz signed an LAPD Authorization to Release Medical Information Form. One of the detectives began the Miranda advisement but Diaz interrupted to request a lawyer. Diaz then asked what he would be charged with. The detectives said they would like to ask him some questions about what happened with the officers, not with [REDACTED], for administrative purposes. Diaz said he was okay with that. The detectives read him his Miranda rights and proceeded to ask Diaz some questions regarding how he sustained his injuries.

Diaz mentioned that he sustained five gunshot wounds. He also said that he was hit by a beanbag and then told to stay down. He heard a female officer say, "Hit the floor." Diaz said that most of the time he complied with the officers but acknowledged that he "got up" when he was not supposed to. He then said he was done talking and the interview terminated.

Diaz's Injuries and Toxicology

Diaz sustained five gunshot wounds to his back, right torso, and right thigh. He underwent surgery and survived. In May 2021, Diaz was transferred to Los Amigos Rehabilitation Center in Downy for further treatment.

Pursuant to the toxicology reports, Diaz tested positive for marijuana and methamphetamine.

Proceedings against Diaz

Diaz was charged in case TA154009 with one count of attempted murder in violation of Penal Code section 664/187(A) and one count of assault with a deadly weapon, in violation of Penal Code section 245(A)(1). On January 25, 2023, he pled no contest to assault with a deadly weapon and was sentenced to nine years in state prison.

LEGAL ANALYSIS

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 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 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) & (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 845a(a)(4).

The evidence examined in this case indicates that officers responded to a report of an assault with a knife. The officers were aware that a victim, ██████████, was barricaded in his bedroom, terrified to come out given Diaz stood in front of his door, armed with a knife. Officers made entry when they heard a commotion which indicated that a potentially deadly altercation may be taking place. When officers ascended the staircase, they saw Diaz in front of ██████████’s door, holding not one, but two, knives. The officers gave Diaz many chances to comply before utilizing force. Officers repeatedly commanded Diaz to drop the knives and step away from them, with his hands on his head. Diaz only partially followed the orders. He set down the knives, then walked toward the officers with his hands at his sides. He stopped, and then took a step toward rather than away, from the knives. Officers warned him to not take any further steps toward the knives. Diaz took another step toward the knives, so Officer Ruiz fired the 40 millimeter, which discharged a beanbag that hit Diaz and caused him to collapse on top of the knives.

Officers commanded Diaz to move away from the knives. Officer Edwards told him that if it hurt him to stand up, he could crawl toward her. Instead of following the officers’ instructions, Diaz lunged toward ██████████’s door with a knife in his left hand. He managed to enter ██████████’s room, and the officers could hear ██████████’s screams as he was being attacked. The officers, led by Edwards and Crisantos-Garcia, approached the door. Based on the visual angles and audio of the body worn videos, it was clear that Diaz was in the midst of attacking ██████████. ██████████ said that Diaz had swung at him three or four times before the officers fired, resulting in injuries, including a laceration to the side of his head.

Based on the totality of the circumstances, it is evident that Edwards and Crisantos-Garcia fired their duty weapons to prevent Diaz from further physically attacking ██████████ with a knife.

The officers did not use lethal force until Diaz used lethal force against [REDACTED]. [REDACTED] credits the officers for saving his life.

CONCLUSION

For the foregoing reasons, we find that Edwards and Crisantos-Garcia acted lawfully at the time they fired their weapons, reasonably believing that deadly force was necessary to defend [REDACTED] against an imminent deadly threat.