

**Non-Fatal Officer Involved Shooting of Kyle Rogers
Los Angeles County Sheriff's Department**

**Deputy Aaron Agajanian #638502
Deputy Daisy Rosales #552015**

J.S.I.D. File ##20-0144



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 25, 2023

MEMORANDUM

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Homicide Bureau
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Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-fatal Officer Involved Shooting of Kyle Rogers
J.S.I.D. File #21-0144
L.A.S.D. File #021-04146-0497-055

DATE: October 25, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 9, 2021, non-fatal shooting of Kyle Rogers by Los Angeles County Sheriff's Department (LASD) Norwalk Patrol Deputies Aaron Agajanian and Daisy Rosales. Based on the totality of the circumstances, we find that Deputies Agajanian and Rosales reasonably believed deadly force against Kyle Rogers was necessary to defend against an imminent threat of death or serious bodily injury to themselves and/or other deputies.

The District Attorney's Command Center was notified of this shooting at approximately 7:18 p.m. on April 9, 2021. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on reports, recorded interviews, dispatch recordings, photographs, Ring camera videos, and DNA and firearms analysis reports, submitted to this office by LASD Homicide Bureau Detective Steve Blagg and Sergeant Vincent Choi on November 2, 2021. The deputies involved were not equipped with body worn cameras during the incident. Agajanian and Rosales each provided voluntary statements to investigators, which were considered in this analysis.

FACTUAL ANALYSIS

Summary

On April 9, 2021 at approximately 5:39 p.m., Norwalk Sheriff patrol deputies responded to an “attempt suicide” call at a single-family residence on Creswick Drive in an unincorporated part of the city of Whittier. The caller was identified as [REDACTED], mother of Kyle Rogers. [REDACTED] reported that her son was under the influence of narcotics and screaming inside the home. He was armed with a knife and threatening to commit suicide. [REDACTED] made the call from a neighbor’s house.

Deputies arrived at the location and contacted [REDACTED], who indicated that Rogers was inside her house yelling and threatening to commit suicide with a knife. She said no one else was in the residence. She told deputies that her husband had several firearms locked inside a safe and Rogers did not have access to the safe, nor was he in possession of a firearm.

Deputies did not attempt to enter the residence. They strategically positioned themselves across the street from the front of the residence, approximately 30 to 45 feet away, and utilized a patrol vehicle’s public address (PA) system to communicate with Rogers, who was inside the residence. Rosales exited her patrol vehicle and positioned herself behind a parked white pickup truck, located across the street and one house east from the residence. Agajanian positioned himself next to a patrol vehicle just east of the white pickup truck. Deputies requested the Mental Evaluation Team to respond,¹ and requested paramedics staged nearby.

Deputies attempted to call Rogers out of the residence using the PA system. After several minutes, Rogers exited the residence through the front door and stood on the porch, holding an unknown object in his hand that resembled a cellphone or a cigarette pack. Rogers screamed at the deputies, stating that he did not want to go to jail, his dog would attack them, and he would shoot anyone who came near the property.² Deputies instructed Rogers to put any objects on the ground and walk toward the patrol cars. Deputies attempted to calm Rogers down, telling Rogers that they wanted to help him. Rogers did not comply.

Rogers continued to scream and went back inside the residence. Moments later, he exited the front door again, holding what appeared to be a rifle with a wooden butt stock in his left hand.³ He held the rifle pointed down toward his right leg. Deputies continuously ordered, encouraged, and pleaded with Rogers to drop the weapon. They reiterated that they were there to help him.

Deputy Rafael Orozco broadcasted via radio that Rogers was armed with a rifle and requested additional deputies to respond. Deputies also requested a field supervisor and less lethal weapons. Deputies formulated a tactical plan and began evacuating neighboring residences. Utilizing the PA system, deputies repeatedly ordered Rogers to put the rifle down and surrender

¹ The Mental Health Evaluation Team did not arrive before the shooting occurred.

² Some of the dialogue exchanged between Rogers and the deputies via the PA system was captured by the residence’s Ring camera.

³ It was later discovered that this first weapon was a “Crossman” pump-action, single shot air rifle.

peacefully. Rogers did not comply and screamed, “No you guys don’t want to help me!” Rogers then went back inside the residence with the rifle.

Deputies continued to communicate over the PA system, encouraging Rogers to exit the residence with his hands up. Deputies also told him that medical personnel were on scene and available to help him. Rogers then exited the residence through the front door while holding a different weapon—a shotgun—with both of his hands. He stood on the front doorstep with the shotgun barrel pointed under his chin and yelled incoherently at deputies. After several minutes, he went back inside the residence. While Rogers was inside the residence, deputies continued attempting to persuade Rogers to surrender. After several minutes, Rogers again exited the residence holding the shotgun with both of his hands. He held the shotgun at a low ready position and pointed the barrel at the deputies who were positioned across the street.⁴

Agajanian and Rosales each fired one shot from their duty weapons. Rogers was struck by gunfire. Rogers retreated inside the house, discarding the shotgun on the front step. Deputies heard Rogers yelling that he had been shot. Deputies continued conducting callouts and instructing Rogers to step outside to receive medical treatment. After several minutes, Rogers exited the residence and deputies arrested him without further incident. Deputies estimated that approximately 30 to 45 minutes elapsed between their arrival and the officer-involved shooting, throughout which they attempted to deescalate the situation and encourage Rogers to surrender peacefully.

Rogers was treated for a gunshot wound to his left shoulder by paramedics staged nearby. He was transported to UCI Medical Center for further treatment.

⁴ There is no video of Rogers pointing the shotgun at the deputies; this information derives from deputies’ statements.



Figure 1: Photograph of the front porch where Rogers stood during the incident.



Figure 2: Photograph of the front porch, depicting the shotgun Rogers discarded after being struck by gunfire.



Figure 3: Photograph depicting Agajanian and Rosales' approximate positions across the street from the residence.

Ring Video

A Ring camera affixed to a wall facing the porch of the residence captured portions of the incident.⁵ The videos do not depict the officer involved shooting.⁶ Due to the angle of the camera, the videos do not depict the deputies during the incident, who were staged across the street.

One of the video clips depicts Rogers exiting the front door yelling at deputies. While the deputies cannot be seen, their voices are heard on the PA system. Rogers appears to be holding an unknown object(s) in his left hand. He threatens the deputies that his dog will attack them if they approach and he would shoot them if they attempt to enter the property. Rogers walks back inside the residence.

⁵ Ring cameras are motion activated and thus do not reflect a continuous recording.

⁶ In an interview with Rogers' father, [REDACTED], investigators asked him if he deleted any of the Ring videos from the day of the incident and he said no.



Figure 4: Image from Ring video depicting Rogers first exiting the residence.

The next video clip depicts Rogers exiting the front door armed with a rifle that appears to be equipped with a silver scope. Deputies are heard telling him that he was not going to jail. Rogers yells that he did nothing wrong and was not going to jail. The video concludes with him walking back inside the house with the rifle.



Figure 5: Image from Ring video depicting Rogers holding the rifle.

The next clip depicts Rogers outside the front door holding a different weapon—a shotgun. He first holds the shotgun vertically and against his chest. Then he points the barrel and muzzle under his chin, with his right hand touching the trigger guard. The deputies are heard telling him that they were there to help him. Rogers yells that he is going to rehab on Monday.



Figure 6: Image from Ring video depicting Rogers as he holds the shotgun pointed under his chin.

Additional Ring videos from a neighboring house exist, but those videos do not depict Rogers or the shooting. Those videos depict a view of the neighboring house's front yard and the street, where LASD patrol vehicles and deputies were positioned just east of the residence. Deputies can be heard directing Rogers to put down the firearm and Rogers can be heard yelling.

Agajanian's Statement

On April 10, 2021, Agajanian provided a voluntary statement to investigators. On the date of the incident, Agajanian was assigned to patrol. He was in full uniform, in a marked patrol car. He was at the Sheriff's Training Academy when he heard a radio call regarding a person attempting to commit suicide with a knife. He responded to the location in approximately two minutes.

Deputy Simon Vargas and Rosales were at the scene when Agajanian arrived. Sergeant Robert Reynolds arrived moments later and formulated a tactical plan. Agajanian and the other deputies parked their patrol vehicles approximately one house east and across the street from the residence. Agajanian was designated as "lethal force" and stood positioned just outside his patrol car, with his duty firearm in the "ready position," the barrel pointed downward. He was approximately 30 yards from the front porch of the residence. From his position, he had an unobstructed view of Rogers while Rogers stood on the front porch, shouting at the deputies.

When Agajanian first saw Rogers, Rogers was not holding any weapon. Rogers was yelling that he did not do anything wrong and did not want to go to jail. Deputy Rosales initiated communication with Rogers, attempting to calm him down. Deputy Han took over communications, utilizing a PA system. Han repeatedly told Rogers that he was not going to jail and that the deputies were there to help him. Based on his background, training and experience, Agajanian guessed that Rogers was under the influence of a stimulant, such as methamphetamine.

Rogers entered and exited the residence several times. At one point he exited the residence carrying a long, silver object. From Agajanian's position, he could not determine what the object was. Rogers held the object in his right hand and pointed it down toward the ground. Deputies continued trying to calm Rogers down, but Rogers was unreceptive and continued shouting that he did not do anything wrong. At this point, deputies were informed by another deputy that there were firearms inside the residence.⁷

Rogers turned his body toward the front door of the residence, thereby exposing his right side. Agajanian then identified the object Rogers held as a rifle. When Agajanian realized Rogers held a firearm, he became "extremely terrified." Agajanian immediately informed the other deputies that Rogers was holding a firearm. Deputies broadcasted over the radio that Rogers was armed with a gun.

After identifying the object as a firearm, Agajanian raised his duty firearm and pointed it at Rogers. Rogers paced across the front porch, as he yelled that he did not do anything wrong and was "going to rehab on Monday." Rogers continued pacing around the front porch. Agajanian heard deputies coordinating the incident over the radio, requesting additional deputies to respond, and initiating evacuation of the surrounding residences.

Agajanian maintained his position. He observed Rogers point the barrel of the rifle directly under his chin and at one point, placed the barrel inside his mouth.⁸ Rogers pointed the firearm's barrel to his chin four to five separate times. Han used the PA system to plead with Rogers not to harm himself and to put the rifle down. Agajanian continued to maintain his position with his duty weapon pointed at Rogers. Rogers stated several times that deputies would have to kill him.

Agajanian estimated that this standoff went on for approximately 20 to 30 minutes, during which Rogers repeatedly entered and exited the residence and deputies attempted to deescalate the situation using the PA system. Right before the officer involved shooting, Rogers had entered the residence and quickly exited. Instead of pacing, as he did before, Rogers "walked with a purpose," holding the rifle in a "low ready position" with both hands. Rogers' right hand was positioned near the firearm's trigger guard. Rogers fixed his gaze at Agajanian, as he "made a sudden movement" with the firearm, raising it up and pointing the barrel at Agajanian. Agajanian was "terrified" because he never had a gun pointed at him before. He believed Rogers intended to shoot him or the other deputies, as Han was standing to Agajanian's left and Rosales to his right. When Rogers pointed his firearm toward Agajanian, Agajanian fired one round from his duty weapon. Agajanian heard a second gunshot immediately after he fired his handgun but did not know who had fired.

After Agajanian fired, Rogers grabbed his stomach area and yelled, "Fuck, you shot me!" He turned away and ran back inside the residence. At a sergeant's direction, Agajanian and Rosales withdrew from the incident because they had fired their duty weapons.

⁷ Rogers' mother, who was next door during the incident, told this to another deputy who then relayed the information via the radio.

⁸ Agajanian described it as a rifle but based on the Ring video and other deputies' statements, Rogers was holding a shotgun at this time.

Rosales' Statement

On April 20, 2021, Rosales provided a voluntary statement to investigators. On the date of the incident she was working patrol. During her shift she heard a radio call regarding an "attempt suicide" at a residence on Creswick Drive in Whittier. The call indicated that the subject was suicidal, armed with a knife, and possibly under the influence of narcotics. She assigned herself to the call and arrived at the location in approximately three minutes.

When she arrived, she met with Han, Vargas, Agajanian, and Sergeant Reynolds. They formed a tactical plan and positioned their patrol vehicles on Creswick Drive, parked one house east of the Rogers residence. Han was assigned less lethal and she and Agajanian were assigned lethal. She heard the handling unit request the MET team to respond.

Rosales observed Rogers exit the residence through the front door. He was empty handed and irate.⁹ She talked to him in an attempt to calm him down and directed him to walk toward the deputies. She told him that the deputies were there to help him. He did not comply and yelled at the deputies. Rogers then entered the residence and after a few moments re-exited, armed with a rifle. The rifle had a long metal barrel with a brown wood colored stock. Rogers held the rifle along his right side with the barrel pointed toward the ground. Rogers continued yelling at the deputies. Deputy Orozco initiated radio traffic requesting additional units to respond.

When Rogers exited the residence holding the rifle, Rosales became instantly alarmed as the situation had escalated. She drew her duty firearm and she and the other deputies repositioned themselves further away from Rogers. Han utilized a PA system and assumed communications with Rogers. Han told him to put the rifle down and that the deputies were there to help him. Rogers did not comply and continued yelling at the deputies.

Rogers entered the residence again and reemerged with the same rifle pointed toward his head.¹⁰ The barrel and muzzle pointed upward, under his chin. Han continued directing Rogers to put the rifle down and surrender peacefully. Rogers did not comply.

Rosales repositioned herself on the passenger side hood of the white truck parked across the street from the residence. She pointed her duty firearm toward Rogers. She confirmed she was still designated lethal. While she was positioned at the white truck, Rogers walked back inside the residence and reemerged with the rifle, pointing the barrel downward. He then raised the rifle and pointed it in her direction. At that moment, she feared for her life and the lives of the deputies near her. She fired one round from her duty handgun. Rogers yelled and fell to the ground. Rosales heard a single gunshot immediately prior to her firing. She believed the other gunshot emanated east of her position. After firing, a sergeant removed her from the incident.

⁹ Based on the first Ring video, Rogers exited the residence holding what appeared to be a cigarette pack; however, because the Ring videos do not reflect the entirety of the incident, it is possible Rogers exited the residence empty-handed before going back inside and re-exiting with the cigarette pack.

¹⁰ Like Agajanian, Rosales thought Rogers had the same rifle the entire time, but the Ring video shows that he switched the rifle out for a shotgun and held the shotgun, not the rifle, under his chin.

Other Deputies' Statements

Additional deputies at the scene who were interviewed stated that Rogers pointed a shotgun at the deputies when the shooting occurred.

Detective Lauren Britt said that after 35 to 40 minutes elapsed, Rogers exited the residence holding a shotgun in his right arm with his finger next to the trigger. He faced the direction where the deputies and patrol vehicles were positioned. Rogers raised the barrel above his knees and toward the direction of the deputies. Britt, fearing for the lives of her fellow deputies, aimed her duty firearm at Rogers. Rogers lowered the barrel of the shotgun for about a second and then quickly raised it again toward the deputies. Two to four gunshots rang out.

Deputy Han, who had been the primary deputy communicating with Rogers on the PA system, said that at the time of the shooting, Rogers was pointing the barrel of a shotgun outward. Han felt that his own life was in danger given that he was "in the line of fire." Han was positioned on the street taking cover behind the driver's door of a patrol Chevy Tahoe, facing the front of the residence, approximately 30 feet away from where Rogers stood. Agajanian and Rosales stood to his left and Deputy Christopher Abeyta was behind him.

Deputy Daniel Rodriguez was positioned behind the hood of the white truck that was parked southeast across the street from the residence. Rodriguez saw Rogers through a fence. Rogers raised the barrel of a firearm, either a rifle or a shotgun, and pointed it toward the deputies. Rodriguez then heard two gunshots, emanating east of where Rodriguez stood.

Deputy Jeremy Licona was positioned behind the engine block of a white truck parked south, across the street from where Rogers stood on the front step. Rodriguez and Rosales stood next to Licona. Right before the shooting, Rogers aimed the shotgun's barrel at a 90-degree angle toward the deputies.

Deputy Christopher Abeyta was positioned across the street from the residence, standing in between the driver's door and driver's seat of the Chevy Tahoe patrol vehicle. He stood directly behind Han. Agajanian stood to his left. Rosales, Rodriguez and Licona were positioned behind a white truck parked just west of Abeyta's position. Right before the shooting, Rogers pointed the shotgun at several deputies, including himself, Han, Agajanian, Rosales, Rodriguez, and Licona. Abeyta believed that Rogers was going to fire the weapon.

██████████'s Statement

██████████ is Rogers' mother. She was interviewed by LASD Internal Affairs Bureau Sergeants Armando Martinez and Louis Serrano on April 9, 2021.¹¹ ██████████ and her husband, ██████████, have lived at the residence since their son, Rogers, was born. Rogers suffers from attention deficit hyperactivity disorder (ADHD) and was residing in a sober living home in Santa Barbara until the onset of the COVID pandemic. In March 2020, Rogers walked away from the sober

¹¹ It is unknown why Internal Affairs sergeants and not Homicide Bureau detectives/sergeants conducted this interview.

living home and was unable to return. ██████. said Rogers lived on the streets for some time before making his way to her residence, his childhood home.

Rogers had been living inside his van, parked in front of their residence, for several months. ██████. and ██████. allowed Rogers to go inside their home, but he was not allowed to sleep there. ██████. got along with Rogers; however, ██████. and Rogers did not get along. Rogers has been a drug addict since he was 13, using alcohol and marijuana from a young age and then moving on to methamphetamine and heroin. Numerous times in the past, Rogers has confronted ██████. and threatened to kill him. Rogers has also repeatedly threatened to kill himself.

██████ and ██████ called the sheriff's department numerous times, when as a teenager, Rogers had threatened them.¹² Rogers was once hospitalized in Utah where he was formally diagnosed with ADHD and other mental problems that ██████ could not specify. Rogers did not take his medication.

On the day of the incident, ██████ told Rogers that she was leaving to pick up her mother for lunch. Rogers was inside the garage sorting his belongings he cleaned out from his van. Rogers' friend, who introduced himself as ██████, was also present. ██████ had never met ██████ before and did not know his last name.

Rogers returned home with her mother at approximately 2:45 p.m. The garage door was closed, and her house appeared locked. She explained that Rogers usually locks up the residence before he leaves. ██████ spoke with her neighbor for several minutes before entering her house. She opened the garage door to go inside her house. Rogers must have heard her return home because she saw him come to the front door. Rogers does not have keys to the home, but ██████ believed he gained entry by leaving the garage side door unlocked.

██████ knew something was wrong because Rogers wanted to speak with her urgently. Rogers frantically told her that he was in a "total psychosis mode" and did not know where he was. ██████ said Rogers talked incoherently and told her that he opened the drawers and cupboards inside the house.

According to ██████, Rogers has exhibited similar behavior in the past and drugs were usually the cause. She told Rogers that he needed to sleep. Rogers said he could not sleep because his legs hurt. ██████ convinced him to sit down on the couch. Rogers fell into a heavy sleep and snored. ██████ noticed that the lights were on inside several of the rooms and she typically keeps the lights off during the day. Rogers has stolen from her in the past and she believed he and ██████ may have searched through the house when she was away. ██████ became suspicious after her mother found some of ██████'s earrings on the floor. ██████ then went to her bedroom and noticed some of her jewelry was missing, including her wedding ring. She confronted Rogers and told him she would call the police if he did not return her jewelry. Rogers denied stealing her jewelry and stated that he was going to leave and would not be

¹² Several Welfare and Institutions Code section 5150 holds were placed on Rogers in the past. Under WIC section 5150, "When a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled," a peace officer or other designated official can take the person into custody at a facility for mental health evaluation and treatment, for a period of up to 72 hours.

arrested. He then retrieved a six to eight-inch kitchen knife and threatened to commit suicide. [REDACTED] stated that Rogers wanted to commit “suicide by cop.” Rogers frequently talked about committing “suicide by cop,” stating that police would have to kill him because he did not want to go back to jail.

Rogers went into the backyard while holding the knife. [REDACTED] and her mother went to the neighbor’s house next door and called the non-emergency phone number for the Norwalk Sheriff’s Station. She did not call 911 because she had previously called the sheriff’s station non-emergency number regarding Rogers’ behavior. [REDACTED] reported that Rogers was armed with a knife and threatening to commit suicide.

[REDACTED] stayed inside her neighbor’s home during the incident and did not see what happened after the deputies arrived. The neighbor’s windows were open, so she heard deputies on the PA system attempting to calm Rogers down and encouraging him to exit her house. She heard Rogers yelling that he was not going back to jail. She then heard two or three gunshots and became distraught believing Rogers had been shot. She estimated that 20-30 minutes elapsed between the time she first heard the deputies on the PA system and the gunshots.

[REDACTED] said that she was unaware of Rogers owning any firearms, but he talked about having a gun. [REDACTED] has a gun safe that was bolted onto the garage floor. The gun safe contained several rifles, shotguns, and a couple of handguns. She said Rogers did not have access to the safe. She also added that [REDACTED] slept with a handgun underneath his pillow because he was fearful that Rogers would break into their house at night. Rogers has threatened to kill [REDACTED] many times in the past. Each morning [REDACTED] secures the gun with a trigger lock and hides it inside the pocket of his jacket. After the incident she checked and ensured [REDACTED]’s handgun was secured and hidden in the jacket.

[REDACTED] said that [REDACTED] placed a shotgun under their bed months ago after Rogers showed up at their house and started causing problems the prior September.¹³ Her husband also kept a skeet shooting gun inside their closet. [REDACTED] said Rogers knew how to operate firearms.

In the past, Rogers has expressed that he hated cops and has been stopped several times by the police while driving his van. He often referred to police as “pigs” and believed all police officers were “crooked.”

Rogers’ Statement

On April 10, 2021, investigators interviewed Rogers at UCI Medical Center. Rogers waived his rights and agreed to speak about the incident. Rogers admitted to using narcotics, including “pills,” methamphetamine, and heroin. He primarily used heroin and his addiction was “bad.” He used about a full gram of heroin each day. Rogers has suffered from anxiety, depression, and ADHD since childhood. He cannot afford medication and his parents “did not believe in it.”

¹³ In his interview with investigators, [REDACTED] acknowledged that he watched the Ring videos and confirmed that the firearm Rogers placed underneath his chin was the same shotgun [REDACTED] hid underneath the bed.

Rogers recollection of the incident was “spotty.” He was “dope sick” on the day of the incident. He had ingested Xanax and lost consciousness. He was awakened by his mother accusing him of stealing her jewelry. He lost consciousness again and awoke to seeing deputies in front of the residence. He has “confinement issues” and panicked when he saw the deputies because he knew he would go to jail. He retrieved a shotgun from underneath his parents’ bed, thinking it would “scare them away.” He acknowledged that the deputies repeatedly directed him to exit the residence, but he did not comply. He loaded the shotgun with one live shell and could not figure out how to load more because he was under the influence of narcotics. He was not planning to shoot anyone; he only wanted the deputies to go away. Rogers said he did not point the gun at anyone. He pointed it at his head or at the ground. He was shot when he pointed his gun toward the ground. He recalled getting shot and running back inside the house, but he did not recall going to the hospital in an ambulance.

Rogers did not really want to commit suicide. When he had encounters with police in the past, he would tell them he was suicidal to avoid arrest, even though it did not always work. Rogers apologized to the investigators and expressed regret for causing this incident.

Forensic Examination of the Shotgun¹⁴

The shotgun recovered from the front porch was a Mossberg 500A 12GA shotgun. DNA samples from various parts of the shotgun including the trigger and trigger guard area of the shotgun were tested and found to include DNA that matched Rogers’ profile.

Proceedings against Rogers

On April 16, 2021, Rogers was charged in case VA15573 with brandishing a firearm, a misdemeanor in violation of Penal Code section 417(c). On June 22, 2021, Rogers pled no contest and was sentenced to two years of formal probation and 137 days in county jail.

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

¹⁴ This refers to the shotgun that Rogers was holding during the officer-involved shooting, as distinguished from the air rifle he had earlier.

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 Rogers repeatedly ignored deputies’ commands to drop his weapons (first the rifle, then the shotgun) and surrender peacefully. Deputies attempted to deescalate the situation, telling Rogers they would get him help, for approximately 30 to 45 minutes before the shooting. Despite Rogers entering and exiting the house repeatedly, with apparent deadly weapons, such as a rifle and shotgun, deputies withheld their fire. Even when Rogers put the barrel of the shotgun to his chin, deputies did not deploy weapons, as Rogers was threatening self-harm, not harm to others. Agajanian and Rosales reportedly only fired their duty weapons when Rogers threatened their lives by raising the barrel of the shotgun and pointing it in their direction.

While there is no body worn video or surveillance video that depicts the moment Rogers pointed the shotgun at the deputies, the non-shooting deputies’ statements corroborate Agajanian and Rosales’ statements that Rogers pointed the shotgun at them causing them to fear for their lives. Their positions, as marked by the white truck and Chevy Tahoe patrol car depicted in the crime scene photos, indicate that they were approximately 30 feet away from the front porch, in the direct line of fire.

CONCLUSION

For the foregoing reasons, we find that based on the totality of the circumstances and available evidence, Agajanian and Rosales acted lawfully at the time they fired their weapons, reasonably believing that deadly force was necessary to defend against an imminent deadly threat.