

**Fatal Officer Involved Shooting of Vondarrow Fisher
Glendora Police Department**

Officer Mykel Tso, #0120

J.S.I.D. File #19-0380



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

December 13, 2021

MEMORANDUM

TO: CHIEF MATTHEW EGAN
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CAPTAIN JOE MENDOZA
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Monterey Park, California 91755

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

SUBJECT: Fatal Officer Involved Shooting of Vondarrow Fisher
J.S.I.D. File #19-0380
G.P.D. File #19-27010
L.A.S.D. File #019-00081-3199-013

DATE: December 13, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 6, 2019, fatal shooting of Vondarrow Fisher by Glendora Police Department (GPD) Officer Mykel Tso. It is our conclusion that Tso was justified in the use of deadly force to apprehend a dangerous fleeing felon. It is also our conclusion that there is insufficient evidence to prove beyond a reasonable doubt that Officer Tso did not act in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on September 6, 2019, at 2:20 p.m. The District Attorney Response Team responded and was provided a briefing, given a walk-through of the scene and interviewed three civilian witnesses.

The following analysis is based on police reports, the coroner's report, surveillance video, recorded interviews, crime scene photographs and audio recordings submitted to this office by Detectives Curtis Brown and Frederick Morse, Los Angeles County Sheriff's Department, Homicide Bureau. Officer Tso provided a voluntary statement which was considered as part of this analysis.

FACTUAL ANALYSIS

On September 6, 2019, at 12:12 p.m., two men entered Lamas Jewelry located at 750 West Route 66 in the City of Glendora. One of the men, later identified as Devin Morris, pointed a black semiautomatic handgun at Liliana S. and ordered her to hang up her cellphone and get

to the ground.¹ The second man, later identified as Vondarrow Fisher, removed between \$80,000 and \$100,000 worth of jewelry from the display cases. Fisher then removed the digital video recorder (DVR) from the store's surveillance system and ordered Liliana S. to give him her wedding rings and watch.² Morris removed money from Liliana S.'s purse. Fisher gave Liliana S. zip ties and ordered her to bind her wrists. After Liliana S. was bound, Morris and Fisher shoved her into the bathroom and left the store through the rear door.³

Ruben L. called 9-1-1 at 12:14 p.m. and reported that a theft was occurring at the store and a possible suspect was driving a Mercedes. GPD police units began responding to the location. GPD dispatch called Liliana S. at the jewelry store, who had freed one wrist from the zip ties. Liliana S. described the armed suspect as a "male black, skinny, wearing a black hoodie and blue jeans." Fisher was described as a "male black wearing a gray t-shirt." The information was broadcast to responding units.

At approximately 12:25 p.m., GPD Community Service Officer Erik Pereyra was responding to the robbery call in a marked GPD vehicle with amber overhead lights. Pereyra observed Fisher walking across West Route 66, from the south curb to the north curb, near Forestdale Avenue. Fisher walked into the pedestrian walkway that runs between 641 West Route 66 and 633 West Route 66. Fisher was wearing a gray shirt and appeared to be talking on his cellphone. Pereyra turned north onto Forestdale Avenue and saw Fisher walking west on the northwest side of 641 West Route 66. Fisher looked toward Pereyra then hid behind a pillar. Pereyra broadcast Fisher's location and physical description to the responding GPD units.⁴

¹ Liliana S. was speaking to her husband, Ruben L., about a woman, later identified as Maria Valenzuela-Ayala, who had been in the store approximately 25 minutes earlier. Liliana S. said that she had a "bad feeling" about Valenzuela-Ayala and called Ruben L. She saw Valenzuela-Ayala leave in a Mercedes and relayed that to her husband. The video surveillance from the store showed Liliana S. on the phone when Morris pointed a handgun at her.

² The stolen DVR and a large portion of the stolen jewelry were recovered in a dumpster behind 626 West Route 66.

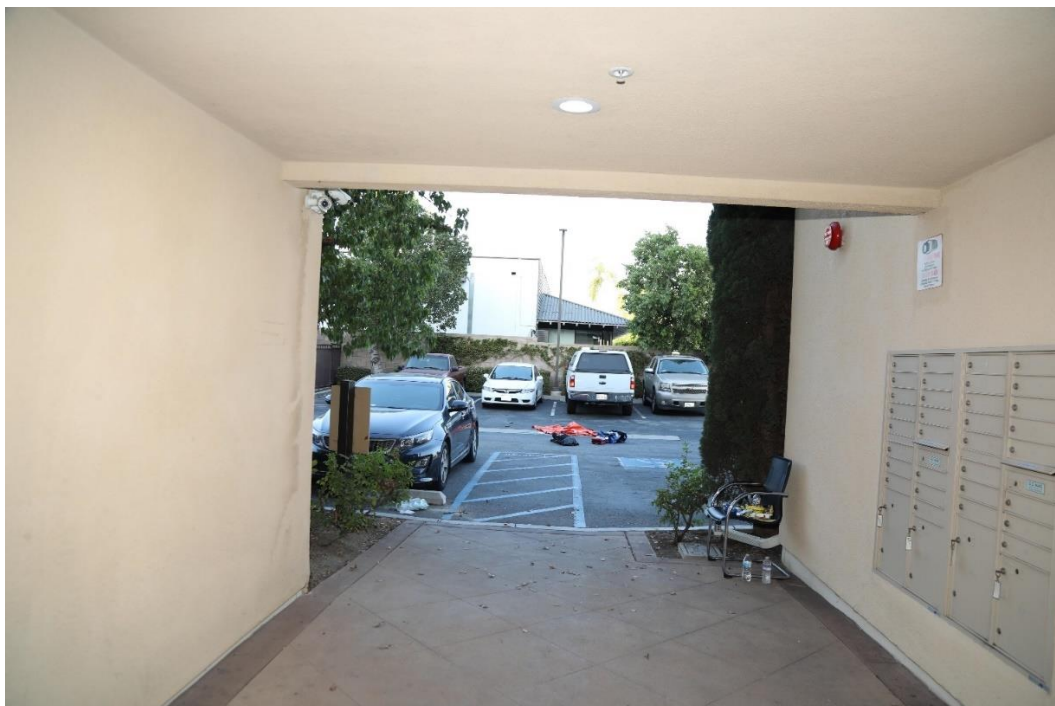
³ During the subsequent robbery investigation, Liliana S. positively identified Morris in a photographic lineup as the man with the gun. In a second photographic lineup, Liliana S. pointed to Fisher's photograph and stated that he had the same round face and skin tone as the second suspect, but she was not 100 percent certain because the bottom of Fisher's face was covered and he wore reflective glasses during the robbery.

⁴ Pereyra broadcast Fisher's description as a "male black, bald, 5'6" to 5'7", heavy set and wearing a gray shirt and blue jeans."



Aerial photograph of the scene.

Uniformed GPD Officers Stephen Hauck, Mykel Tso and Michael Arana responded to the parking lot on the north side of 641 West Route 66. The officers were advised by several civilians that Fisher was last seen going eastbound. The officers began walking east through the complex, clearing a courtyard and checking for unlocked doors. They reached a corridor that connects 641 West Route 66 and 633 West Route 66. The corridor empties into a parking lot on the east side of 633 West Route 66.



View into the parking lot on the east side of 633 West Route 66 from the corridor.



View into the parking lot from the mouth of the corridor.



View of the corridor from the east parking lot.

Statement of GPD Officer Stephen Hauck

Hauck covered the corridor to the east as Tso and Arana searched the area behind him. Hauck saw Fisher's head come into view in the parking lot while Hauck was still in the corridor. Hauck and Fisher made eye contact before Fisher ducked down to the rear of a car parked to the left (north) of the corridor's exit. Fisher then moved further north and out of Hauck's view. Hauck broadcast that officers were in a foot pursuit.

Hauck ran toward the end of the corridor and saw Fisher hiding between the two cars parked north of the corridor's exit.⁵ Hauck walked into the lot and gave Fisher commands to show his hands. At that time, Fisher stood and walked east through the lot. Hauck continued to order Fisher to show his hands. Fisher ignored Hauck and continued walking east with his hands visible.

Hauck, aware that Tso and Arana were armed with rifles, transitioned from his service weapon to a Taser. At that point, Fisher reached his left hand down into his jeans' pocket and removed an object. Due to the fact that Fisher matched the description of one of the outstanding suspects in a robbery involving a gun, Hauck decided to rearm himself with his service weapon. Before he was able to remove his service weapon, Tso yelled, "Gun! Gun!" immediately followed by two gunshots.

Statement of GPD Officer Mykel Tso

Tso was armed with an AR-15 rifle. The officers proceeded east through the corridor connecting 633 West Route 66 and 641 West Route 66. Hauck was in the lead, followed by Tso and Arana. Tso was within ten to 15 yards of the end of the corridor when he observed Fisher standing to the rear of a vehicle parked in the east parking lot. Hauck, who was five yards ahead of Tso, yelled, "Let me see your hands!" Fisher moved north, out of Tso's view. Hauck broadcast that they were in a foot pursuit. Fisher quickly came back into view, walking southeast across the parking lot. Hauck continued to give Fisher multiple commands, which he ignored. Instead, Fisher reached toward the front of his body with his left hand, pushing it up and down into his waistband. Tso thought Fisher was attempting to remove something from his pocket or waistband.

Tso was to the rear of Fisher, offset to the south. At that time, he caught a glimpse of something black in Fisher's left hand. He could not make out what it was, but believed it was a handgun.⁶ Tso believed that Fisher was one of the outstanding suspects in the armed robbery at the jewelry store. He matched the description of one of the suspects and was in the vicinity of the crime within a relatively short time of the robbery.⁷ Tso believed that if one suspect had a gun then it was possible that the other suspect was also armed. Additionally, Fisher ignored multiple commands to show his hands. Instead, he reached his left hand into his waistband area. Furthermore, Fisher was walking normally through the lot when he had an avenue of escape toward West Route 66. The fact that he was not running from the officers led Tso to believe his intention was to confront the officers. When Fisher removed the black object, Tso feared it was a gun and that Fisher was going to use it against him and

⁵ Hauck could see Fisher's reflection moving on the northernmost car.

⁶ Tso was not certain, but believed he yelled, "Gun!"

⁷ The robbery occurred at 12:12 p.m. and the officer involved shooting occurred at 12:28 p.m.

his fellow officers. In fear for his life, and the life of his fellow officers, Tso raised his rifle and fired.⁸

Fisher fell to the ground. Tso observed a black object fly from Fisher and hit the ground and break. At that time, Tso realized that the black object was a cellphone and not a gun. Tso retrieved a medical bag from a unit parked on West Route 66 and gave it to Hauck. Officers rendered aid to Fisher until Fire Department personnel arrived to the scene.

Statement of GPD Officer Michael Arana

Upon arrival, Arana was contacted by a civilian in the parking lot of 641 West Route 66 who told him that a suspicious man had run eastbound on the sidewalk in front of the complex. Arana went to the sidewalk, but did not see anyone. At that time, Hauck and Tso became involved in a foot pursuit. Arana ran into the interior corridor and joined the officers. Arana was behind Tso and Hauck. Uniformed GPD Officer Tim Crawford was also in the corridor.

Arana observed Fisher walking in the east parking lot with his back toward the officers. Fisher was ordered to show his hands. He did not comply. Arana observed Fisher's arms move up then push down forcefully toward his waistband area. Arana could not see his hands which were in front of his body. Arana believed Fisher was attempting to access something. Fisher's actions concerned Arana because the waistband is an area where individuals carry guns. Arana was also concerned because Fisher was not running from the officers when he had clear access to the south. Arana thought Fisher was going to reach for a gun and possibly turn around and start firing. At that time, Arana heard two gunshots.

Statement of GPD Officer Tim Crawford

Crawford responded to Forestdale Avenue and West Route 66 and observed Tso and Arana walking through the corridor of the apartment complex. Crawford exited his vehicle and heard the officers' broadcast they were in a foot pursuit. Crawford ran into the corridor and observed Hauck, Tso and Arana ahead of him. At that time, Crawford observed Fisher in the east parking lot. Fisher's back was to the officers. One or two of the officers were ordering Fisher to show his hands. Fisher did not comply.

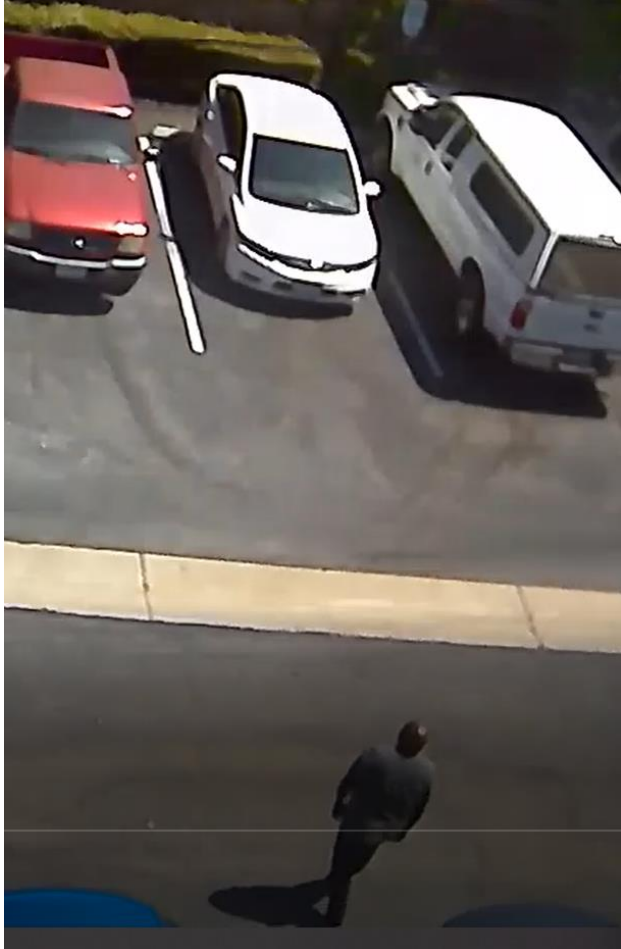
Crawford ran toward the end of the corridor and pointed his service weapon at Fisher. Crawford could see Fisher's arms moving, but his hands were out of view in front of his body. It appeared to Crawford that Fisher was manipulating something in his hands. At that time, Crawford heard three gunshots. Fisher fell to the ground and something flew from his hands in front of him. Crawford broadcast that shots had been fired and requested the Fire Department respond to the scene. Crawford and another officer rendered medical aid to Fisher until medical personnel arrived.

Video Surveillance

A video surveillance camera was positioned near the roof on the east side of the apartment complex captured Fisher's movements leading up to, and during, the officer involved shooting. The video shows Fisher walking through the lot then stop and appear to look toward the corridor. Fisher then runs between two parked cars before disappearing from

⁸ Tso fired four rounds.

view. Fisher quickly reappears and continues walking southeast through the lot toward the street. Fisher leans slightly to the left and reaches his left hand into his left jeans pocket. Fisher removes his left hand from the pocket and brings both hands to the front of his body. Two seconds later, Fisher begins to fall and an object is seen flying from the front of his body and landing on the ground.



Fisher after reappearing from between the two cars.



Fisher reaching his left hand into his pocket.

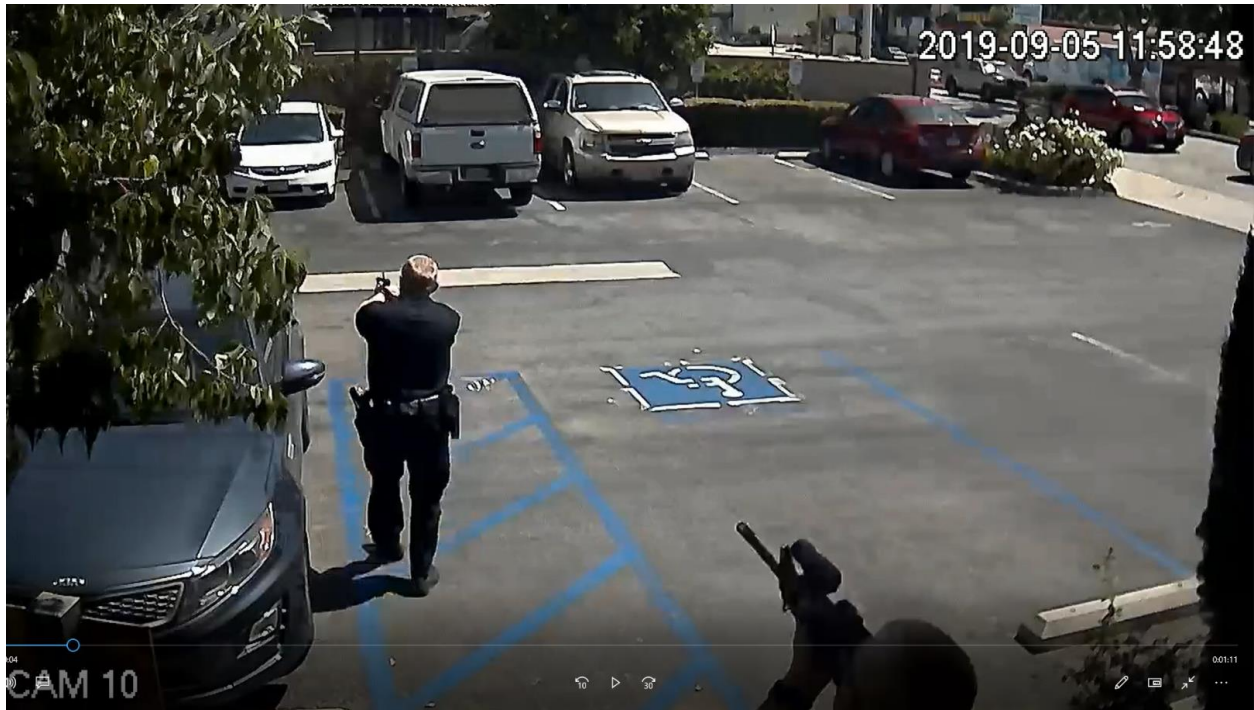


Fisher removing his left hand from his jeans pocket.

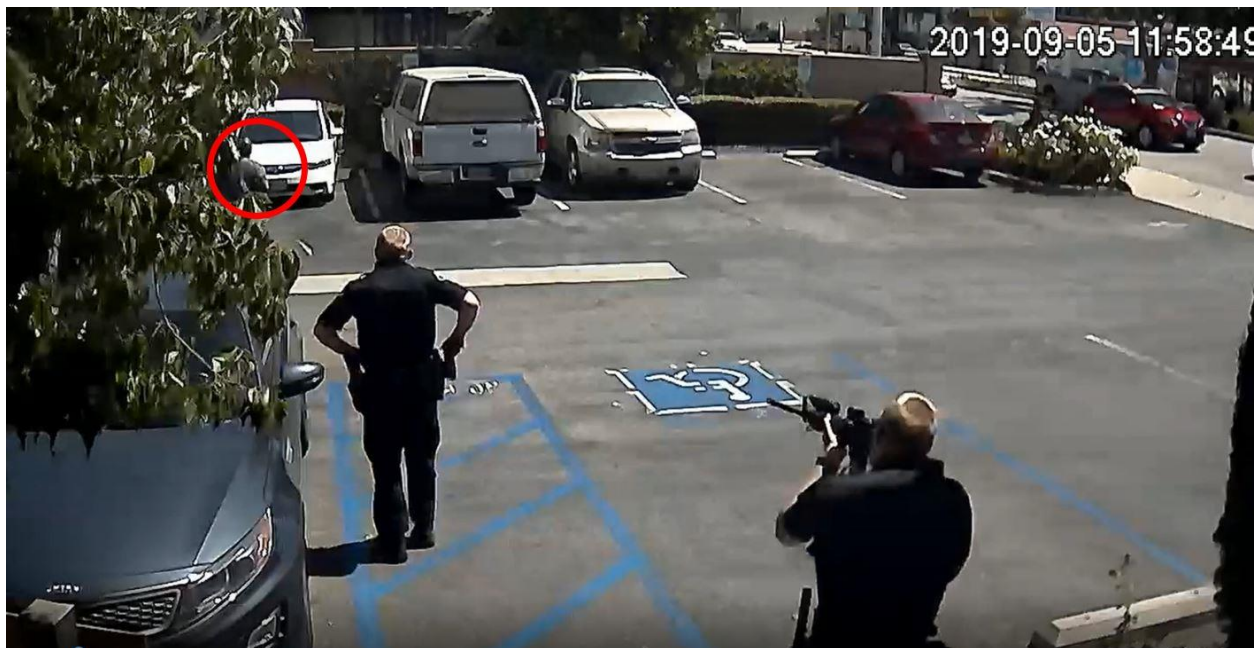


Black object flying from Fisher as he falls.

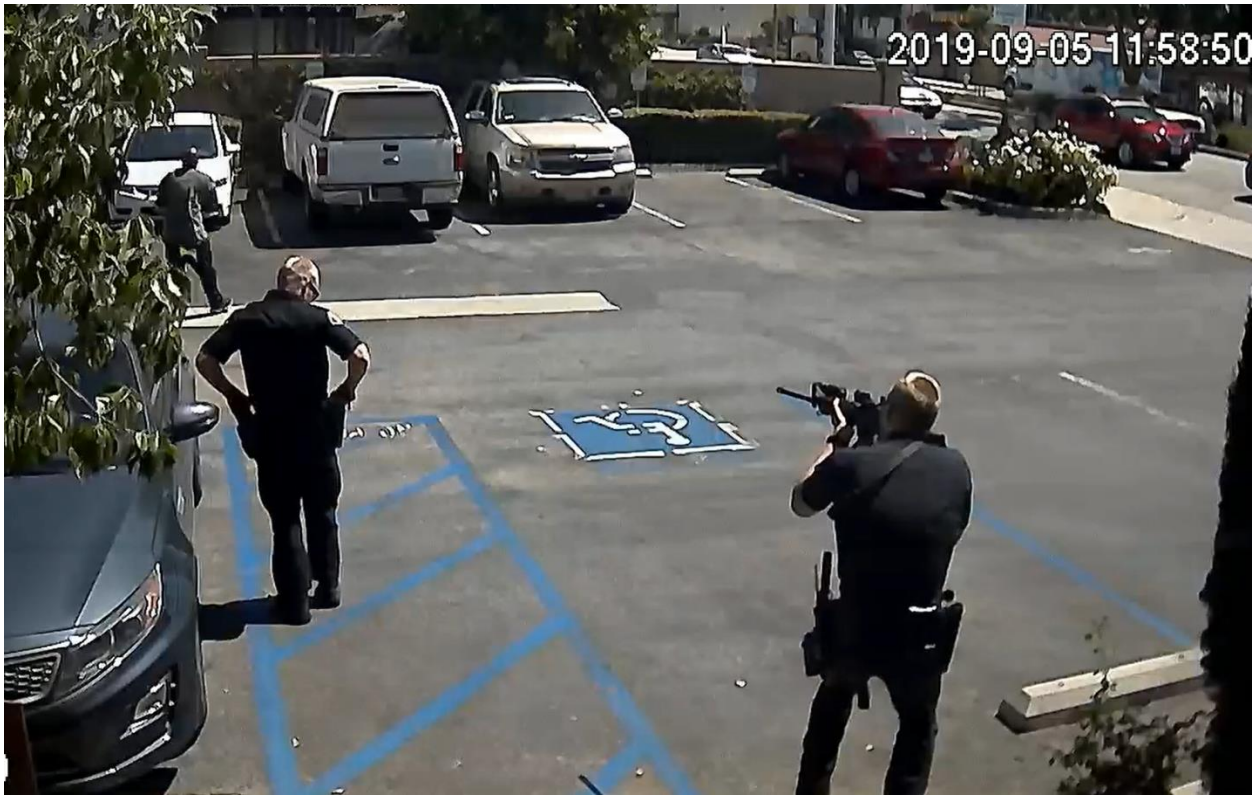
A second video surveillance camera positioned directly above the corridor's exit captured Hauck and Tso's movements leading up to, and during, the officer involved shooting. Fisher is not immediately visible in this video due to tree branches and a car blocking the camera's view. When Fisher emerges from behind the tree and car, the video shows Fisher's hands at his waistband in front of his body and out of view. A dark object flies from Fisher immediately after the shooting. The following are still shots taken from the surveillance video:



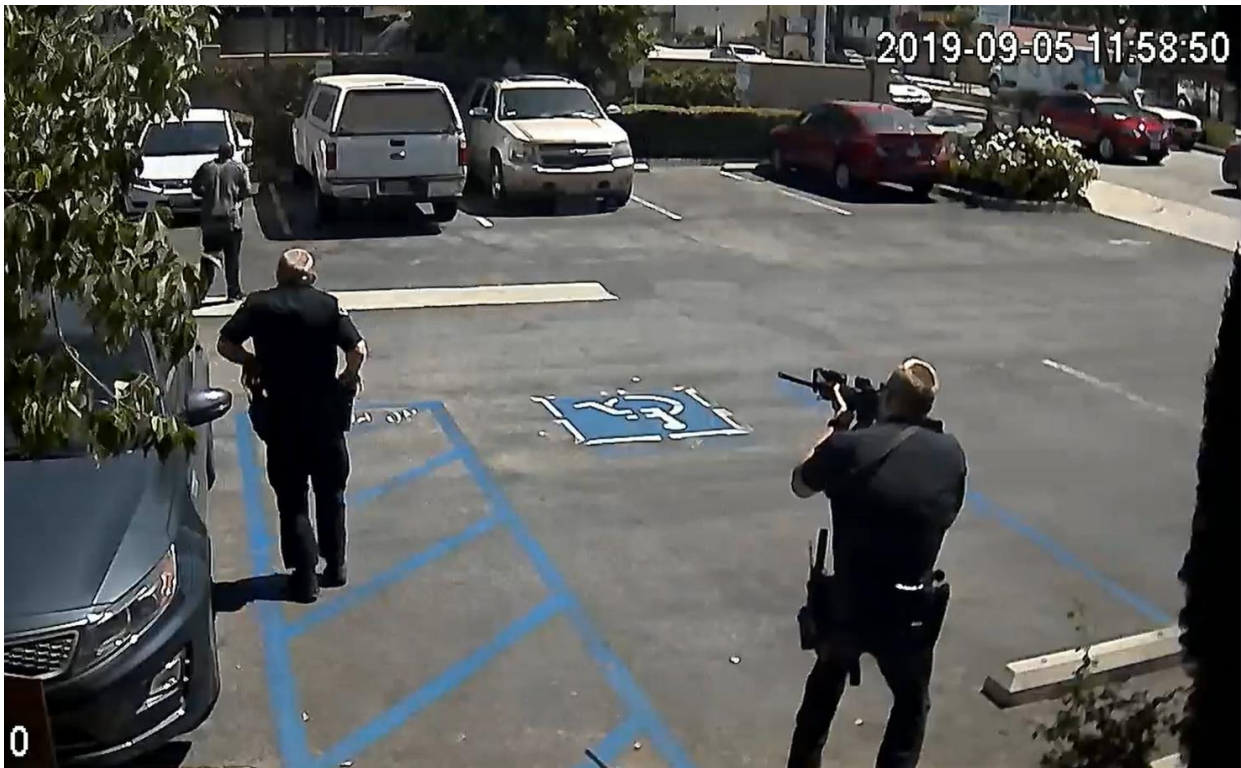
Hauck walking into the parking lot with his service weapon drawn. Tso is visible at the bottom of the photograph pointing his rifle in the same direction. Fisher is obscured by the tree and vehicle.



The right side of Fisher's upper body comes into view as he walks southeast through the lot. Hauck is holstering his service weapon. Tso is offset to Hauck's rear.



Fisher's arms are bent and his hands are not visible to the front of his body near his waistband area.



Fisher's hands are still not visible at his wasitband. Hauck begins to draw his service weapon.



A black object flies from Fisher as he falls to the ground after he was struck by gunfire.

Audio Recording

Hauck was wearing an audio recorder which was activated during the shooting. Twelve seconds elapsed between the time Hauck first observed Fisher to the sound of gunfire. The following was captured on the recording:

Hauck: There he is. Hey! Come here! Let me see your hands! Where'd he go? He's right behind the car! Hey! Get on the ground! Get on the ground! Let me see your hands!

Sound of gunfire.

Recovered Cellphone

A black cellphone, broken into three pieces, was recovered in the parking lot where Fisher fell to the ground.



Pieces of the broken cellphone in the parking lot.

Autopsy Report

Fisher was transported to Pomona Valley Hospital where he was pronounced deceased at 1:20 p.m. Los Angeles County Deputy Medical Examiner Odey Ukpo, M.D., performed a postmortem examination of Fisher on September 10, 2019. Fisher's death was ascribed to multiple gunshot wounds. Fisher sustained gunshot wounds to the right buttock, right lower back and mid back. The trajectory of all three gunshot wounds was back to front, right to left and upward.

Statement of Maria Valenzuela-Ayala

On September 6, 2019, Valenzuela-Ayala was arrested in a silver Mercedes in the parking lot of Lamas Jewelry by GPD officers responding to the 9-1-1 call. Valenzuela-Ayala waived her Miranda rights and was interviewed by GPD detectives on September 6, 2019, and LASD Homicide detectives on September 7, 2019. The following is a summary of both interviews.

Valenzuela-Ayala knew Fisher for several months and characterized their relationship as "friends with benefits." She knew Morris through Fisher, but did not know his name. Valenzuela-Ayala admitted knowing that Fisher and Morris were going to rob the jewelry store. She acted as the getaway driver.⁹

⁹ Valenzuela-Ayala stated that the Mercedes was Fisher's vehicle. A signed application to transfer the title of the Mercedes was found in the vehicle. The new owner was listed as Vondarrow Fisher.

Valenzuela-Ayala dropped off Fisher and Morris near the jewelry store's shopping center. Valenzuela-Ayala entered the store and saw that Liliana S. was the only person in the store. Valenzuela-Ayala exited the store, called Fisher on his cellphone and relayed the information to him. She observed Fisher and Morris walking toward the jewelry store, then left in the Mercedes.

Statement of Devon Morris

On September 6, 2019, Morris escaped from the perimeter established by GPD around the jewelry store. He was arrested on September 18, 2019. Morris waived his Miranda rights and admitted committing the armed robbery with Fisher. Morris identified Fisher from a photographic line-up. Morris stated that the weapon was a BB gun he obtained from Fisher prior to the robbery.

Criminal Charges

Morris and Valenzuela-Ayala were charged with second degree robbery in felony complaint KA121962. Morris was also charged with kidnapping. On November 27, 2019, Morris pled no contest to both counts and was sentenced to five years in state prison. On the same date, Valenzuela-Ayala pled no contest to second degree robbery and was sentenced to three years formal probation and 165 days in county jail.

LAW

Penal Code section 196 provides that the killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. Section 196 applies both where the suspect in question is charged with a felony and where the officer has "reasonable cause" to believe that the person has committed a felony. *People v. Kilvington* (1984) 104 Cal. 86, 89. The felony must involve violence or the threat of violence. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. See, CALCRIM No. 505.

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually exist. See, CALCRIM No. 505.

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance

[is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer’s use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

“An officer is not constitutionally required to wait until he sets eyes upon the weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun.” *Thompson v. Hubbard* (2001) 257 F.3d 896, 899. See *Ryder v. City of Topeka* (1987) 814 F.2d 1412, 1419 (concluding that, because a requirement that a suspect actually have a weapon would place police in “a dangerous and unreasonable situation ... whether a particular seizure is reasonable is dependent on the ‘totality of circumstances,’ and not simply on whether the suspect was actually armed.”)

The prosecution has the burden of proving beyond a reasonable doubt that the use of deadly force was not justified. See, CALCRIM Nos. 505, 507.

CONCLUSION

The evidence in this case shows that at the time of shooting, officers were pursuing Fisher, 11 minutes after he and Morris had committed an armed robbery of a jewelry store. Under the law, an officer may use deadly force to apprehend an individual where there is reasonable cause to believe that person has committed a forcible and atrocious crime. *People v. Ceballos* (1974) 12 Cal. 3d 470, 478, states that pursuant to Penal Code section 197, robbery is considered a forcible or atrocious felony because human life either is, or is presumed to be, in peril.

Furthermore, the evidence shows that Tso fired his weapon when he believed Fisher had removed a gun from his waistband area and was about to fire upon him, and his fellow officers. Fisher, however, was not armed with a gun. Instead, he was in possession of a black cellphone. The People have the burden of proving beyond a reasonable doubt that a reasonable person in Tso’s position would find it unreasonable for Tso to believe Fisher armed himself with a gun and posed a threat of great bodily injury or death to the pursuing officers.

Tso and the other officers were actively searching for two suspects from an armed robbery that occurred approximately 11 minutes earlier and in close proximity to where they first observed Fisher. Fisher matched the description of one of the suspects and the evidence shows that he had, in fact, committed the robbery with Morris. The officers were aware that at least one of the suspects (Morris) used a gun during the robbery. It was unknown if Fisher was armed. It was not unreasonable for the officers to conclude that if one suspect was armed during the commission of the robbery, the other was also in possession of a gun. Due to

Fisher's refusal to surrender, there was not an opportunity to conclusively make that determination before the officer involved shooting.

The surveillance video corroborates the fact that Fisher walked away from the officers at a casual pace rather than run from the obvious police presence. Instead of complying with orders to get to the ground and show his hands, surveillance video shows Tso reaching his left hand into his jeans pocket. Prior to doing so, it appears that he was not holding anything in his hands. It is at this time that Hauck and Tso stated that they observed something in Fisher's hands. After the shooting, surveillance video captured an object flying from the front of Fisher's body.

Tso stated he observed Fisher remove a black object with his left hand. The broken cellphone, surveillance video and Hauck and Crawford's observations corroborate Tso. As the *Thompson* and *Ryder* courts stated, an officer is not required "to wait until he sets eyes upon the weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun." Requiring that a suspect actually have a weapon would place officers in "a dangerous and unreasonable situation ... whether a particular seizure is reasonable is dependent on the 'totality of circumstances,' and not simply on whether the suspect was actually armed."

Under the totality of circumstances, it was not unreasonable for Tso to believe the black object he observed Fisher remove from his clothing was a firearm and that Fisher intended to use against the officers in an effort to escape.

We conclude that Officer Mykel Tso was justified in the use of deadly force to apprehend a dangerous and fleeing felon. We further conclude that there is insufficient evidence to prove beyond a reasonable doubt that a reasonable person in Tso's position would find it unreasonable to believe that Fisher posed a threat of serious bodily harm or death.