

Officer Involved Shooting of Carlos Mendez

Azusa Police Department

Sergeant Terry Smith, #1071
Detective Seth Chapman, #1123
Corporal Thomas Avila, #1101
Corporal Andrew Rodriguez, #1051
Corporal Rocky Wenrick, #1113

Irwindale Police Department

Officer Manuel Campos, #742

J.S.I.D. File #16-0582



JACKIE LACEY

District Attorney

Justice System Integrity Division

April 11, 2018

MEMORANDUM

TO: CHIEF STEVE HUNT
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Azusa, California 91702

CHIEF TY HENSHAW
Irwindale Police Department
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Irwindale, California 91706

CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
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Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Carlos Mendez
J.S.I.D. File #16-0582
L.A.S.D. File #016-00126-3199-013
A.P.D. File #16-43385

DATE: April 11, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 8, 2016, fatal shooting of Carlos Mendez by Azusa Police Department Sergeant Terry Smith, Detective Seth Chapman, Corporals Thomas Avila, Andrew Rodriguez, and Rocky Wenrick, and Irwindale Police Department Officer Manuel Campos. It is our conclusion that the officers used reasonable force in self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on November 8, 2016, at approximately 4:34 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Sergeant Richard Biddle.

The following analysis is based on reports, audio recordings, recorded interviews, videos and photographs submitted to this office by the LASD. The departmentally compelled statements of the officers were not considered in this analysis.

FACTUAL ANALYSIS

The 2016 presidential election was held on November 8, 2016. Azusa Police Department (APD) had assigned additional officers to patrol the various polling places throughout the city. One of the polling places in the City of Azusa was a community center located in Memorial Park near the intersections of West Fourth Street and North Orange Place.

On November 8, 2016, at approximately 1:50 p.m., Elida D. was walking from her home to her polling place in Memorial Park when a man, later identified as Carlos Mendez, who was wearing “army clothing” and carrying a “big gun” shot her in the chest. She stumbled to a home on Bayless Street where the homeowner and a passerby helped her.¹

Near the same time, Mary M. was driving home in her Toyota van after voting at the Memorial Park polling place. She left the parking lot and drove north on North Orange Place toward West Fourth Street. As she was preparing to turn right onto West Fourth Street, she saw Mendez across the street from her carrying a large gun. The last thing Mary remembers was Mendez raising the gun in her direction. Mendez shot at Mary’s van several times, striking her in the left side of her head above and slightly behind her left ear. As a result of being shot, Mary lost control of her van and impacted a parked car in front of 535 West Fourth Street.

Yvette H. was in her bedroom when she heard several “popping noises” and then heard what sounded like a car crash. She looked out her window onto North Orange Place to see Mendez standing in the street shooting a handgun at a truck which was quickly driving south in the parking lot adjacent to the Memorial Park polling place. After the truck fled the area, Yvette watched as Mendez turned and walked directly toward Francis Varney who was standing on the sidewalk in front of his home at 543 West Fourth Street. Mendez walked to within several feet of Varney, raised a 9mm handgun in his direction, and shot Varney in the face. Varney immediately collapsed on the ground and died as a result of this gunshot wound. After shooting Varney, Mendez entered his home at 535 West Fourth Street.

At 1:53 p.m., 9-1-1 operators for the APD received the first of several reports of a man shooting near Memorial Park and the intersection of Third Street and Orange Avenue. Multiple callers described seeing a man in a tactical vest shooting at cars; however, the descriptions of both the shooter and the location of the shootings varied between callers. None of the callers alerted the operators to the fact that Mary, Elida, or Varney had been shot. In response to the 9-1-1 calls, several APD officers were dispatched to the scene.

At approximately 2:02 p.m., after having been directed to the intersection of West Fourth Street and North Orange Place by several different witnesses, Officer Michael Bires was the first officer to arrive at the scene where Mary and Varney had been shot. He was told the shooter might have gone inside the house at 535 West Fourth Street, but there was no immediate sign of an active shooter. Upon seeing Mary and Varney, Bires requested emergency assistance and a number of officers responded to the scene. In addition to the multiple APD officers who

¹ Elida D. suffered serious trauma from a gunshot wound to her abdomen. She was transported to the hospital via helicopter and underwent multiple surgeries, but never fully recovered from her wounds and is unable to speak. The details of precisely how and where she was shot are unclear.

responded, Officer Manuel Campos of the Irwindale Police Department, who happened to be in the area on an unrelated matter, was flagged down by a pedestrian who pointed him in the direction of the scene. Campos' vehicle was equipped with a dashboard camera that captured some of the subsequent interaction with Mendez.

After Mary was shot and injured, she was still able to stand on her own; however, she was very disoriented and unable to explain to officers what had occurred. When officers arrived, she was standing to the driver's side of her van, nearly in front of Mendez's house. Officer Carlos Plascencia tried to have Mary walk with him to a position of safety, but she appeared to have difficulty understanding what he was telling her. Plascencia had to pull her away from her van while Officer Brandon Bailey aimed his firearm at the house to provide cover. Sergeant Terry Smith took a position behind Mary's van and also pointed his sidearm at the house to cover the evacuation of Mary.

Detective Seth Chapman responded to the call for assistance and took a position to the east of Mendez's home, behind a parked car. Corporal Andrew Rodriguez also responded to the call and spoke to an unknown witness who directed him toward Mendez's home. Rodriguez was east of Chapman, standing in the street when the subsequent shooting occurred.

Corporals Thomas Avila and Rocky Wenrick responded to the west side of Mendez's home, armed themselves with assault rifles, and took a position of cover behind a vehicle parked in a neighboring driveway. Campos, also armed with an assault rifle, joined them.

At 2:07 p.m., while the officers were still trying to ascertain what had happened and provide medical aid to the injured, they heard a gunshot from inside Mendez's home.² Approximately ten seconds later, Mendez exited the front door of his home with a long-barreled weapon and began shooting indiscriminately at the officers arrayed around his home.

Avila, Campos and Wenrick moved toward the street and engaged Mendez with their assault rifles. Campos fired 5 shots, Avila and Wenrick each fired multiple times; however, they did not know how many rounds were loaded into their magazines before they shot, so it is difficult to know precisely how many times they shot.³ Smith, Chapman, and Rodriguez engaged Mendez with their sidearms. Smith fired nine times, Chapman fired 16 times, and Rodriguez fired three times. All of the shooting occurred over a period of approximately 20 seconds.

After the shooting, Avila, Campos and Wenrick retreated behind the home to the west of Mendez's home and armored vehicles arrived to evacuate Smith and Varney. Varney's death was pronounced by the tactical SWAT medics who arrived shortly after the officer involved shooting.

Later, a SWAT team approached Mendez's home and found him lying in the threshold of the front door. He was face up with a 9mm handgun near his right hand, an apparent bulletproof

² The timing of the shooting is based on the time stamp of the dashboard camera in Campos' vehicle. While there is no audio, all of the visible officers react to an apparent gunshot at 2:07 and 37 seconds, and react again at 2:07 and 48 seconds. The shooting appears to end at 2:08 and 8 seconds.

³ A total of 24 cartridge casings ejected from the three officers' rifles were located at the scene.

tactical vest strapped on his chest, a 12-gauge shotgun slung around him, and an M4 assault rifle on the floor next to his body.



Figure 1: Still photo taken from the camera mounted to Campos' patrol vehicle. Mendez shot at the officers from the front porch of his home. Avila (A), Wenrick (B), and Campos (C) shot at Mendez with their assault rifles. Smith (D), Chapman (not pictured), and Rodriguez (not pictured) shot at Mendez with their sidearms. Varney can be seen on the sidewalk in front of Wenrick.

While most of the officers believed Mendez opened fire with an assault rifle, the evidence suggests he used the shotgun to shoot at the officers. Three expended shotgun casings were located on and near the porch from which Mendez emerged.⁴ In addition to the shotgun shells, 12 expended 9mm cartridges were located at various locations near Mendez's home. Those cartridges were identified as having been fired from the handgun recovered next to Mendez and shown in Figure 4. The vest worn by Mendez was equipped with pouches which were filled with shotgun, handgun, and rifle ammunition, as well as two machete style fixed blade knives.

⁴ The assault rifle found next to Mendez had two live rounds jammed in the chamber; however, no expended casings matching the rifle were found at the crime scene. A live round, similar to those found in the rifle, was discovered in the street approximately 100 feet from Mendez's front porch, and a fully loaded magazine designed for Mendez's rifle was located in the center console of Mary's van. This suggests Mendez attempted to use his rifle at different points during his attack, but was unable to discharge it.



Figure 2: An M4 assault rifle was next to Mendez.



Figure 4: 9mm handgun found next to Mendez.



Figure 3: Shotgun used by Mendez to shoot at officers.



Figure 5: Tactical vest worn by Mendez.

On November 10, 2016, Deputy Medical Examiner Dr. Ogonna Chinwah conducted an autopsy of Mendez. Dr. Chinwah determined Mendez died as a result of two gunshot wounds, one to the right side of his face, and one to his abdomen. Subsequent examination of the bullets recovered during the autopsy revealed that they were consistent with bullets fired from Rodriguez's weapon; however, a definitive identification was not possible.⁵ Toxicology testing revealed methamphetamine and cocaine in Mendez's system.

LEGAL ANALYSIS

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 3470; *see also* 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. In protecting himself or another, a person may use all

⁵ The bullets recovered from the body were heavily damaged. The criminalist who examined them noted that the characteristics of the bullets matched those test fired from Rodriguez's firearm; however, they were insufficient for a positive identification.

the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If a person uses force in lawful self-defense, he need not stop using force until the threat has ended. *See Plumhoff v. Rickard* (2014) 134 S.Ct. 2012, 2022.

In this case, officers responded to an active shooter who had killed one person and critically injured two others. Although they did not know the precise details of what had occurred when they arrived, Mendez responded to their arrival by exiting his home and firing his 12-gauge shotgun indiscriminately in their direction. Mendez's actions gave officers no other alternative but to respond with deadly force to protect themselves, the other officers at the scene, and the public. Because the officers acted to protect themselves and others at the scene from an active shooter, their use of force was lawful.

CONCLUSION

We conclude that all of the involved officers used lawful force in self-defense and in the defense of others when they shot Carlos Mendez. We are closing our file and will take no further action in this matter.