

**Officer Involved Shooting of Jorge Victor
Long Beach Police Department**

Detective Gabriel Garrido, #6118

Officer Todd Neveling, #10052

J.S.I.D. File #17-0038



JACKIE LACEY

District Attorney

JUSTICE SYSTEM INTEGRITY DIVISION

October 1, 2018

MEMORANDUM

TO: CHIEF ROBERT G. LUNA
Long Beach Police Department
400 West Broadway
Long Beach, California 90802

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

RE: Officer Involved Shooting of Jorge Victor
J.S.I.D. File #17-0038
L.B.P.D. File #16-17-0004412

DATE: October 1, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 22, 2017, fatal shooting of Jorge Victor by Long Beach Police Department (LBPD) Detective Gabriel Garrido and Officer Todd Neveling. It is our conclusion that Detective Garrido and Officer Neveling acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on January 22, 2017, at 6:30 p.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports prepared by the LBPD Investigations Bureau, Sergeant Robert Woods, Detectives D.J. Goodman and Mark Mattia. The reports include photographs, videos, recorded statements and radio transmissions.

The voluntary statements of Detective Garrido and Officer Neveling were considered in this analysis.

FACTUAL ANALYSIS

On January 21, 2017, LBPD officers responded to [REDACTED] in the City of Long Beach, regarding a shooting that had just occurred. Upon arrival, officers found Anthony R. lying on the ground with multiple gunshot wounds.¹ During the course of this shooting investigation, it was revealed that Jorge Victor shot Anthony R.² A Career Criminal Apprehension Team (CCAT) was assembled to locate Victor for the attempted murder of Anthony.³

¹ Officers located approximately seven expended .40 caliber cartridges at the scene.

² Luz R., Anthony's wife, told investigators that Anthony told her Jorge Victor shot him. In addition, Victor's sister, Josie R., called LBPD dispatch and advised the dispatcher Victor was responsible for shooting Anthony.

³ Victor was recently released from prison and was on parole. Investigators were provided with his parole address, a half-way home at [REDACTED] [REDACTED]e, in the City of Carson.

Surveillance was initiated on Victor and on January 22, 2017, at approximately 11:00 a.m., the surveillance led investigators to Victor's parole address. LBPD SWAT arrived to set up a perimeter on the house. A SWAT officer saw Victor attempt to climb over a fence north of the location and saw that he was holding a handgun in his hand.

Another SWAT officer broadcast that Victor was running across the roof of a home east of the location. Victor kicked in the door and broke into a home where a family resided. Three family members ran out, leaving two children inside of the home with Victor. SWAT prepared to enter the home to rescue the possible hostages. Victor exited the rear door of the home and began jumping over fences. SWAT brought in a K9 unit to assist in locating Victor. The K9 led officers to a water heater closet located in the backyard of [REDACTED] [REDACTED]. SWAT officers gave several commands for Victor to come out of the closet, but he refused. In an attempt to induce Victor to surrender and come out of the closet, Officer Robert Owens fired three less lethal rounds at Victor. Owens gave Victor an order to, "Drop the gun and come out of the closet with your hands up." Victor responded with, "OK. OK. I'm going to point the barrel out of the door and give you the gun." Owens told Victor, "Do not do that!" and "If you point a gun at the officers, you will be shot."

Victor refused to comply with the orders to drop the gun and come out with his hands up. Officer Jay Dyer deployed a 40mm CS gas Ferret round to the upper portion of the closet door in hopes it would cause Victor to surrender and come out of the closet; however, Victor refused to come out. Officer Jeremy Haining used a pole that had a hook attached to the end of it to open the closet door. The door opened and Victor was seen in a squatted position with his right hand in plain view and his left hand out of sight. Owens ordered Victor to show his hands. Victor slowly raised his left hand, which allowed Owens to see that Victor was holding a black semiautomatic handgun. Owens gave Victor several commands to drop the gun, but he did not comply.

Owens fired another less lethal round striking Victor on the left side of his abdomen. Victor did not drop the gun and, instead, pulled the gun closer to his body in an upright position. Detective Gabriel Garrido fired a single round from his rifle while Owens fired another less lethal round at Victor, striking his left arm, knocking the handgun out of his hand and onto the ground, landing to the left of Victor's left foot. Owens gave Victor commands to show his hands. Owens saw Victor's left hand reaching downward toward his left foot in what appeared to be an attempt to locate the gun to pick it up. Owens yelled out, "He's going for the gun! He's picking up the gun!" In an effort to stop Victor from retrieving the gun, Owens fired his last less lethal round at Victor. Victor picked up the handgun. Garrido, along with Officer Todd Neveling, fired several rounds at Victor. Victor dropped the handgun after the rounds struck him. Haining used the pole with the hook attached to it to move the handgun away from Victor, while the other officers positioned inside of the home exited and approached Victor to take him into custody. SWAT officers rendered aid to Victor until Long Beach Fire Department arrived. Victor was pronounced dead at the scene.

Statement of Josie R.

Josie R. is the sister of Victor. Josie told investigators on January 21, 2017, that she received a phone call from Victor's girlfriend, Luz. Luz told Josie that Victor shot her husband Anthony.⁴ Shortly after, Josie received a phone call from Victor who told her he shot Anthony in self-defense. Victor told Josie that Anthony and Luz were trying to set him up. Victor asked Josie for help, but she refused. Josie told investigators she was afraid of Victor and was also afraid for the safety of her parents.⁵ Josie drove to her parents' home and evacuated them to her residence. Josie contacted LBPD communications center and provided information about Victor.⁶

On January 22, 2017, at approximately 3:24 a.m., Josie received a text message from Victor telling her to tell their family that he is sorry, he loved them, and he was going to kill himself. Josie spoke with him, pleading with him to turn himself in and not to kill himself. Victor asked Josie for money to leave the state and asked her to meet him. Josie agreed to meet him, but never planned on showing up. Victor told Josie if the police became involved, he would shoot it out with them.⁷

Statement of Detective Timothy Everts

Detective Everts was assigned to CCAT and was assigned to assist in locating Victor for the attempted murder of Anthony. During the investigation, a ping warrant was issued for two cell phones belonging to Victor. The pings were monitored and led the CCAT to Victor's parole address located at 2 [REDACTED] [REDACTED]. At approximately 11:00 a.m., Everts was driving west on 220th Place when he noticed a white Honda sedan. Everts saw a woman sitting in the driver's seat and as Everts passed the vehicle, a man, matching Victor's description, exited the front passenger seat and quickly walked north across the street into a house.

Officers took positions on the street and observed Victor walking back and forth several times from the Honda to a house located at [REDACTED] [REDACTED]e. Eventually, the white Honda left without Victor. SWAT was requested to assist and arrived at the location to set up a perimeter. Everts heard a SWAT officer broadcast that he saw Victor attempt to climb over a fence north of the location, holding a handgun in his hand. Another SWAT officer broadcast that Victor was running across the roof east of the location and then heard him kicking in a door located at [REDACTED] [REDACTED].

SWAT officers moved their positions to the home at [REDACTED] [REDACTED] and saw occupants of the home run out. The occupants told officers Victor was inside their home with two of their

⁴ Josie told investigators Victor was recently released from prison and was on parole. Victor and Luz developed a relationship while he was in prison and started dating when he was released. Josie knew that Luz was involved with both Anthony and Victor at the same time.

⁵ Josie stated since his release from prison, Victor was suffering from mental health issues, and recently stopped taking his medication.

⁶ Josie called LBPD's dispatch center and stated her brother, Jorge Victor, shot Anthony. She stated he was on parole and was known to carry a shotgun and a 9mm handgun. She also provided a possible location of his whereabouts at [REDACTED] [REDACTED], in the City of Carson.

⁷ Josie was cooperative and provided information regarding Victor to LBPD in an attempt to locate and stop him from harming himself or others.

children still inside. SWAT officers prepared to enter the home to rescue the children when another SWAT officer broadcast Victor was in the backyard of another home. Everts heard a broadcast that a K9 alerted on a water heater closet door and officers began setting up around the water heater closet. Everts heard several gas or SL6 rounds go off and could hear SWAT officers yelling at Victor to, "Drop the gun!" Everts heard multiple gunshots and then a broadcast that an officer involved shooting had occurred.

Statement of Officer Todd Neveling

On January 22, 2017, Officer Todd Neveling was assigned to LBPB's SWAT team. SWAT was requested to assist in the apprehension of an attempted murder suspect, Victor. Neveling responded to the locations command post to acquire information, gear and weapons for the incident. Neveling gathered his body armor, semi-automatic rifle, handgun, helmet and rain gear as it was raining heavily. While preparing for the incident, SWAT officers were informed that Victor was believed to be located at [REDACTED] [REDACTED] in the City of Carson.⁸

Neveling was assigned to a perimeter position to the rear of [REDACTED] [REDACTED] with Sergeant Timothy Olson and SWAT Officers Robert Davenport, Haining and Dyer. Olson, Davenport and Neveling entered the backyard of [REDACTED] [REDACTED] and began setting up their positions. Neveling brought a SL6 less lethal munition system to the backyard as an option in case Victor was not compliant. Neveling took cover behind a shed on the northwest end of the backyard. Neveling heard Davenport yell, "Get your hands up! Show me your hands! He's got a gun!"

Neveling grabbed his rifle from its slung position on his chest and brought it up to provide Davenport with lethal cover. Victor was making his way south between the wall that divides [REDACTED] [REDACTED] and [REDACTED] [REDACTED], out of Neveling's sight. Neveling asked Davenport, "Are you sure he had a gun?" Davenport told Neveling that he definitely saw a gun in Victor's hand. Neveling and Davenport saw Victor jump the wall toward [REDACTED] [REDACTED] and lost sight of him.⁹ Several seconds later, Neveling and Davenport saw Victor on the roof of [REDACTED] [REDACTED]. Neveling could see Victor looking directly at him and Davenport. Victor was jogging slowly with his knees slightly bent, moving west on the roof with both of his hands above his head. Neveling could hear officers in the front of [REDACTED] [REDACTED] giving Victor commands to surrender.

Neveling saw Victor jump off the roof and then lost sight of him. Neveling believed Victor was surrendering until he saw Victor jump over the wall westbound and back into the rear yard of [REDACTED] [REDACTED]. Victor then jumped back over the fence eastbound into the rear yard of [REDACTED] [REDACTED], and out of Neveling's sight. Shortly after, Neveling heard a broadcast that Victor was kicking in a back door at [REDACTED] [REDACTED]. A family was seen exiting the property and told officers there were two children still left inside with Victor. Officers formed a plan to enter the residence to rescue the children.

⁸ The command center informed the SWAT officers that Victor was wanted for the attempted murder of his brother, Anthony, that occurred the previous night where he shot Anthony several times with a handgun. SWAT officers were also informed that Victor was on parole for an assault with a deadly weapon. Victor and Anthony are not brothers by blood relation, but referred to themselves as "brothers."

⁹ Olson broadcast what Davenport and Neveling observed in order to communicate with other SWAT officers regarding Victor's movement.

Simultaneous to the officers entering the residence, Neveling saw Victor jumping a wall into the rear yard of [REDACTED] [REDACTED]. Neveling broadcast what he saw and told Davenport to stay in position. Neveling ran to the front of [REDACTED] [REDACTED] and saw Dyer in front of [REDACTED] [REDACTED] giving commands to Victor. Neveling retook his position with Davenport in the backyard of [REDACTED] [REDACTED]. Neveling and the other officers confirmed Victor was no longer moving from yard to yard and were able to clear the backyard of [REDACTED] [REDACTED]. SWAT officers entered [REDACTED] [REDACTED] and evacuated the residence of any occupants.

Olson, Garrido, Owens, Haining, and Dyer entered the backyard at [REDACTED] [REDACTED] with Neveling and Davenport. It was at this time, K9 handler Officer Edmund Moscosso deployed his police dog into the backyard of [REDACTED] [REDACTED]. The dog alerted on a wood door on the south side of the residence that faced southbound into the backyard. The dog was indicating to handler Moscosso that there was possibly a person on the other side of the door. The door appeared to be to where the water heater to the residence was located. Olson, Owens, Haining, Davenport, Garrido and Dyer took positions close to the water heater door on the west side of the dividing property line cinder block wall. Neveling took a position on the far southeast end of the dividing property line cinder block wall and had a good view of the door in case it was to open. Neveling and the other officers were all on the west side of the wall looking over eastbound into the rear of [REDACTED] [REDACTED], to the water heater door where Victor was believed to be. Neveling was positioned behind a wall that gave him a view to see the top of the water heater door. Neveling saw that the top of the water heater door had an air vent to it and was concerned Victor could see out of it placing Victor in a position to shoot at Neveling and the other officers.

Olson told Neveling that he was to give Owens, Haining, Davenport, Garrido and Dyer lethal cover from his position with a ladder while they covered the door of the water heater.¹⁰ Garrido was also assigned to provide lethal cover for Owens, Haining, Davenport and Dyer from the position that was closer to the water heater door. Owens was armed with a less lethal SL6 and was assigned to give Victor commands to surrender. Haining had a pole with a hook attached at the end to reach over the wall and pull the door open in case Victor refused to comply with the commands to surrender. Dyer was armed with a gas gun and was assigned to deploy chemical gas into the water heater area in the event Victor refused to comply with the commands given to him.

Owens commanded, "Victor, this is the Long Beach Police Department. We know you're in there. Put the gun down and come out." Neveling could hear a muffled voice from inside the water heater, but he was not able to hear what was being said. Neveling then heard Owens say, "No! Don't do that! Just put the gun down and come out with both of your hands up! We won't shoot you!" Neveling could hear Victor inside the water heater closet talking back and forth with Owens, but it did not sound like Victor was complying with Owens' commands since Owens repeated his commands to drop the gun and come out with his hands up. Believing Victor was not going to comply with the several commands given to him, Neveling took one step up the ladder to provide lethal cover. Owens then fired approximately three less lethal SL6 rounds through the water heater closet door. There were more muffling sounds coming from the

¹⁰ There was a wall approximately six feet tall where Neveling was standing. A ladder was placed up against the wall to aid in looking over the wall.

water heater closet and Garrido yelled, "No! Do not do that!" Dyer fired one gas chemical agent round toward the top of the door, but it did not appear to have any effect. Neveling saw Haining reach over the wall with the pole and hook the top end of the door. Haining pulled the door open.

Neveling climbed two more steps up the ladder, placing him on the third step up of the six-foot ladder which provided him height to see over the wall with an unobstructed view of Victor. Victor was in a squatting position within the water heater closet, facing south. Victor had his right hand above his head and was holding a black semiautomatic handgun in his left hand with the magazine well pointing toward him and the other officers. Neveling began yelling at Victor to drop the gun. Neveling believed Victor was trying to conceal himself from Owens' position and was avoiding his commands. Neveling continued to yell approximately eight to nine more times to Victor, "Police! Drop the gun!" Owens fired approximately two more less lethal SL6 rounds at Victor. Neveling saw Victor take his right hand down, try to grab the gun with both hands, and heard approximately one gunshot come from Garrido's direction. Victor dropped the gun on the ground near his left foot. Neveling saw Victor pick the gun up off the ground with his left hand and bring it up to his waist, with both of his hands on the gun. Victor placed the gun into his right hand with the barrel pointing toward Neveling and the other officers. Neveling fired seven quick rounds at Victor's upper torso area from his elevated position behind the wall. Garrido fired additional rounds at the same time. Victor continued to hold onto the gun and it appeared he was still trying to bring it up however, the rounds seemed to be effective as Victor dropped the gun and fell to his knees. Neveling watched Victor as Haining reached over the wall with the pole that had a hook attached to the end of it and pulled the gun away from Victor's reach. The officers positioned inside of [REDACTED] [REDACTED] came outside to render aid to Victor.

Statement of Detective Gabriel Garrido

On January 22, 2017, Detective Gabriel Garrido was assigned to LBPD's SWAT team and was notified of an attempted murder suspect (Victor) who was nearby. Garrido responded to the call and was provided information regarding Victor. Garrido was dressed in his tactical gear and armed with a .45 caliber Springfield 1911 pistol and a 5.56 mm LWRC model M6 rifle. Garrido, along with other officers of the SWAT team, was assigned to take a position in front of [REDACTED] [REDACTED], where it was believed Victor was located. Garrido and other officers drove in a Bearcat to the location and parked directly in front of the location while other SWAT officers took perimeter positions. A broadcast was made that Victor attempted to jump over a fence and was seen running in yards. Garrido saw Victor running on a rooftop east of his location. Garrido heard multiple officers giving Victor verbal commands to drop his gun and surrender, but he refused and continued jumping into yards in the area. Victor was seen entering a home at [REDACTED] [REDACTED]. Shortly after, multiple people ran out of the residence towards officers stating a man with a gun broke into their home and two children were left inside. Officers entered the residence to rescue the children. Victor was not inside the residence and officers were able to safely remove the children.

Victor was then observed in the backyard of [REDACTED] [REDACTED]. Garrido and his team relocated the Bearcat to the front yard of [REDACTED] [REDACTED]. Garrido joined other SWAT officers and

evacuated the home at [REDACTED] [REDACTED]. Moscosso deployed his K9 in the backyard and it immediately alerted on an exterior water heater closet that was attached to the residence on the southwest corner. Garrido and other officers believed Victor was hiding in the water heater closet. SWAT officers Owens, Haining, Neveling, Davenport, Dyer and Sergeant Olson formed an E.A.T. (Emergency Action Team) in the backyard of [REDACTED] [REDACTED].¹¹

Garrido and other officers assigned to the E.A.T. formulated a plan to call Victor out of the water heater closet, while a separate E.A.T. was staged inside of the residence at [REDACTED] [REDACTED] to take Victor into custody. Owens called out to Victor using a loud and clear voice and stated that they were the Long Beach Police Department and had him surrounded. Owens told Victor to come out of the water heater closet with his hands up. Garrido saw the knob on the closet begin to move and advised Owens, Haining and Dyer of his observations. Owens repeated his order to Victor. Garrido heard Victor from inside the water heater closet say something about giving up in a muffled voice. Owens ordered Victor to open the closet door. Garrido heard Victor say that he had a gun. Owens ordered Victor to put the gun down and open the closet door. Owens gave Victor orders several times. Garrido heard Victor talking about his gun and that he was going to come out of the closet with it. Owens told Garrido he heard the slide on a gun being racked and that he was going to deploy less lethal rounds into the closet.

Owens deployed three less lethal rounds into the left side of the door. Garrido heard Victor moan and Owens again ordered Victor to open the door and come out. Victor said he was going to stick the gun out of the door, barrel first. Garrido told Victor, "First, put the gun on the ground. Then, open the door as slowly as you can, and put both of your hands out of the closet with nothing in them." Victor responded that he was getting ready to "do this." Victor stated he would come out with the gun and show it to them. Garrido told Victor not to bring the gun out and that they were not going to hurt him, but to do exactly what he said and right away. Garrido again ordered Victor to put the gun on the ground, open the door very slowly, and to show both of his empty hands. Garrido believed Victor was working up the courage to provoke the police into shooting him as he was breathing heavily and was still talking about the gun in a low voice. Garrido was afraid Victor would suddenly open the door and confront him and the other officers with his gun. It did not appear that he was going to surrender or obey the multiple commands given to him. Dyer moved up to the cinder block wall and fired one gas round into the top of the door while Garrido provided lethal cover. Victor still refused to open the door and surrender.

Olson ordered Haining to use the pole to open the water heater closet door. Haining opened the door and Garrido saw Victor sitting on the ground facing south with his feet flat in front of him and his knees drawn up to his chest. Victor extended his left hand out of the closet holding a gun by the grip between his thumb and forefinger near the magazine well.¹² It appeared to Garrido that the gun was loaded as the slide was forward. Garrido and Owens began shouting at Victor to drop the gun, however he refused to drop it and did not acknowledge the commands. Victor extended his right hand out in front of him next to his left hand and continued holding the gun. It appeared Victor was rotating his left hand at the wrist as if he was trying to show the entire gun.

¹¹ 2 [REDACTED] [REDACTED] had a cinder block wall approximately five feet high on the east side of the property separating it from [REDACTED] [REDACTED]. This wall was used for cover to work behind while the E.A.T. attempted to order Victor out of the closet.

¹² Garrido described the gun as a black semiautomatic pistol that did not appear to have a magazine in it.

Garrido and Owens continued to order Victor to drop the gun. Victor ignored the commands. Garrido told Owens to deploy another less lethal round at Victor. Owens fired a less lethal round at Victor, striking him in the torso area. Garrido saw Victor bring his left hand with the gun still in it toward his body, adjusting his grip. Victor was holding the gun in a shooting position with his four fingers wrapped around the grip and his thumb around the back. Victor held the gun close to his body with the barrel pointed away from him in a southerly direction where officers were located.

Garrido believed Victor was preparing to raise his weapon to fire it and was yelling loudly at Victor to drop the gun, but he ignored the commands. In fear, Garrido aimed his rifle at Victor's torso, switched it to semiautomatic, and fired one round. Owens fired another less lethal round at Victor immediately after. Victor dropped the gun on the ground toward his left side. Garrido put his rifle on safe and yelled at Victor to show his hands. Victor reached down toward the ground to his left where he dropped the gun. Garrido yelled at Victor again to show his hands, but he ignored Garrido. Owens yelled that Victor was still reaching for the gun and Garrido saw Victor continue to reach toward the ground. Garrido yelled at Victor not to pick up the gun or he would shoot him again. Victor's left hand rose up from his left side and he was holding the gun again. Garrido aimed his rifle at the right edge of the water heater closet door near the hinges in anticipation that the rounds would penetrate through the door, striking Victor. Garrido again switched his rifle to semiautomatic and fired approximately seven to eight more rounds. Garrido heard gunfire simultaneously south of him and believed the rounds struck Victor. Victor's hands fell limp in front of him and the gun fell out of the closet to the ground. Garrido immediately put his rifle on safe. Garrido stepped up onto a wooden bench to get a better view of Victor and it appeared he was no longer breathing. Victor had multiple gunshot wounds to his torso and face area. The smell of natural gas was emitting from the water heater closet which caused Garrido concern. Olson requested the E.A.T. located inside of the residence to approach Victor to take him into custody. Haining used the pole to move the gun away from Victor's body. The E.A.T. positioned inside of the residence, exited and moved Victor to a patio area where they rendered aid to him.

Statement of Detective Hector Cardiel

Detective Hector Cardiel was positioned by the front door inside of the home located at [REDACTED], while other officers were positioned in the backyard, surrounding Victor. After the officer involved shooting occurred, Cardiel, along with other officers, approached the water heater closet to take Victor into custody. As Cardiel approached, he could see Victor inside the closet in a squat position with his hands in front of him and on top of his knees. Victor was facing south into the yard with the water heater to his left. Cardiel could see that Victor had a large gunshot wound to his mouth, left hand and arms. There was a bullet hole to the water heater and hot water was pouring out of it, onto Victor's chest area. In fear of the natural gas igniting, Cardiel grabbed Victor's right hand and pulled him out of the closet, onto the walkway, far away from the closet and under the patio area. Cardiel placed Victor on his back to render aid, applying pressure to the wounds on his chest however, Victor appeared to be lifeless. Long Beach Fire Department arrived, immediately rendered aid to Victor, and pronounced him dead.

Statement of Desiree G.

Desiree G. was at her home located at [REDACTED], when SWAT officers evacuated her. A SWAT officer asked her questions about possible hiding places at her home. She told the officer someone could hide in the water heater closet if they were thin enough. Moments later, Desiree heard officers yelling multiple times to, "Come out! Drop the weapon!" She saw smoke coming from her backyard, and heard officers tell Victor multiple times to, "Come out, get down, and drop the weapon." Shortly after, she heard what she thought was a stun gun, followed by multiple gunshots. Desiree told investigators that the officers gave Victor multiple chances to comply, but he would not. She stated the commands were loud enough to hear from across the street.

Statement of Danny P.

Danny P. was inside of his home located at [REDACTED], when he observed police activity to the rear of his home through his second story window that faced north. He saw multiple police officers surrounding a backyard that was north/west of his home and noticed the officers were focused on a specific location. Danny was not able to see clearly what the officers were focused on, as his view was obstructed by a tree. Danny heard the officers give verbal commands, "Come out with your hands up!" and then heard what he believed to be a flash bang grenade. He then saw multiple muzzle flashes and heard a volley of gunshots. Danny recorded the incident on his digital video camera and provided a copy to investigators.

Video Footage

The video recording provided by witness Danny P. shows approximately five officers wearing green camouflage clothing surrounding a backyard.¹³ Three officers are positioned west behind a concrete wall, facing east, with their rifles pointed east toward an unknown object that is obstructed by a large tree positioned in the middle of the video. Two other officers are positioned on the east side of the video behind a concrete wall and are also facing east, with their backs toward the camera.

At approximately 1:13 minutes, a flash is observed from an officer on the west side of the video, along with a loud pop that is heard. From approximately 3:30 to 3:40 minutes, various loud, unintelligible commands and screams are heard. At approximately 3:43 minutes, "Drop it! Drop it!" can be heard. The sound of two shots are then heard coming from an officer positioned on the west side of the video, followed by a loud gun shot from a different officer positioned on the west side of the video. At approximately 3:52 minutes, more screaming can be heard followed by a volley of gunshots coming from the officers positioned on the west side of the video.

At approximately 5:26 minutes, multiple officers and a K9 are seen exiting from the rear door of the residence, coming into the backyard with guns drawn, and moving east toward an unknown

¹³ Heavy rain is visible and can be heard in the video.

object obstructed by a large tree. At approximately 6:32 minutes, officers are seen pulling what appears to be a person to the middle of the yard.¹⁴



Still photo from video depicting the officer's approximate positions.

¹⁴ The entire video is 7 minutes and 23 seconds. There are also voices of an unknown man and unknown woman that can be heard in the video with various reactions and commentary.

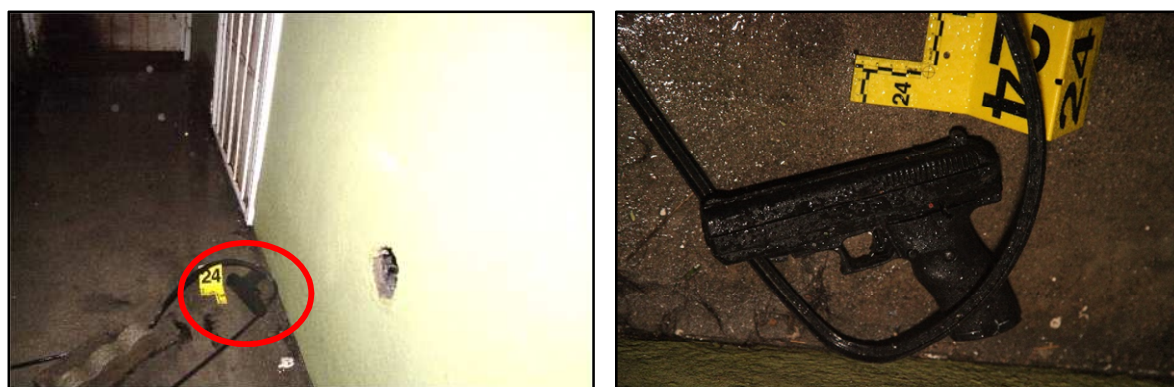


Aerial of multiple locations where Victor fled and was ultimately apprehended.

Firearms/Weapons

Officers Garrido and Neveling were both armed with .223 caliber rifles. Eighteen expended .223 caliber cartridge casings were recovered at the scene and determined to have been fired from Garrido and Neveling's rifles.

Victor was armed with a .40 caliber pistol that was recovered near his body.¹⁵



Victor's .40 caliber pistol found at the location near his body.

¹⁵ Seven expended .40 caliber cartridge cases were recovered from the scene where the attempted murder victim Anthony R. was shot, and were determined to have been fired from Victor's pistol.

Decedent Jorge Victor

Victor was 33 at the time of his death. He was 5'4 and weighed 150 pounds.¹⁶

Autopsy

On January 27, 2017, Deputy Medical Examiner Paul V. Gliniecki, M.D., performed a post-mortem examination of Victor's body. Victor's death was caused by multiple gunshot wounds, including one to the face, one to the head, and four to the chest that were deemed fatal.

A toxicology analysis revealed Victor had the presence of methamphetamine and amphetamine in his system at the time of his death.

LEGAL ANALYSIS

The Law

California law permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. *People v. Ceballos* (1974) 12 Cal.3d 470; *Kortum v. Alkire* (1977) 69 Cal.App.3d 326. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. *Ceballos, supra*, 12 Cal.3d at 479. "An officer may use reasonable force to make an arrest, prevent escape or overcome resistance." *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516. When protecting the public peace, a police officer "is entitled to even greater use of force than might be in the same circumstances required for self-defense." *Id.* Where an officer has probable cause to believe that a suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon, or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape. *Tennessee v. Garner* (1985) 471 U.S. 1.

Analysis

At the time of this incident, Victor had various misdemeanor and felony convictions, was recently on parole and was wanted for shooting Anthony R. multiple times the night before. This information was known to the SWAT officers who were assigned to apprehend and take Victor into custody. It was also known to the officers involved that Victor did not wish to get caught and would "shoot it out" with the police, if necessary. Because of these facts, it was reasonable for the officers involved to believe that Victor was violent, desperate, armed and dangerous, and presented a deadly threat to the officers and to the public.

The belief that Victor presented a deadly threat was corroborated by the fact that during the apprehension of Victor, he fled from yard to yard until he broke into a residence occupied by a

¹⁶ Victor has several felony and misdemeanor convictions that include carrying a loaded firearm and exhibiting a deadly weapon.

family, including children. During this break in, Victor had a gun in his possession. In fear, the family evacuated their home, leaving two young children in the home with Victor, creating a possible hostage situation.

Additionally, when SWAT officers surrounded Victor and ordered him to drop the gun and surrender, Victor refused to comply and did not drop his gun. Several less lethal rounds were fired at Victor in an attempt to get him to surrender and come out of the closet. A gas Ferret round was also fired at Victor, but had no effect. Even after Victor was shot and wounded causing him to drop his gun, he picked the gun up after multiple commands were given for him to drop it and not to grab the gun. It is possible that Victor may have been attempting to commit “suicide by cop” by continually refusing to comply with the multiple commands to surrender and drop his gun. This assumption is also supported by the fact that Victor told his sister, Josie, he would “shoot it out” with the police if they became involved.

CONCLUSION

Victor’s recent acts of violence, together with his refusal to surrender and drop his gun, made him an immediate threat of serious physical injury or death to not only the officers, but also the public if he managed to escape.

The force used by Detective Gabriel Garrido and Officer Todd Neveling was reasonable in order to defend their lives and the lives of others, and to capture a dangerous, fleeing felon. We are therefore closing our file and will take no further action in this matter.