

Officer Involved Shooting of Luis Alberto Ramirez

Los Angeles Police Department

Officer Joshua Towe, #41425

J.S.I.D. File #14-0487



JACKIE LACEY

District Attorney

Justice System Integrity Division

December 27, 2016

MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ
 Los Angeles Police Department
 Force Investigation Division
 100 West First Street, Suite 431
 Los Angeles, California 90012

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

SUBJECT: Officer Involved Shooting of Luis Alberto Ramirez
 J.S.I.D. File #14-0487
 F.I.D. File #F041-14

DATE: December 27, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 25, 2014, fatal shooting of Luis Alberto Ramirez. We have concluded that Los Angeles Police Department (LAPD) Officer Joshua Towe acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on July 25, 2014 at 5:00 a.m. The District Attorney Response Team responded to the scene and was given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports, diagrams, recordings and videos submitted by LAPD Force Investigation Detectives Jen Kim and John Simmons. The compelled statement of Officer Towe was considered for this analysis.

FACTUAL ANALYSIS

Overview

In the early morning hours of July 25, 2014, Los Angeles Police Department (LAPD) officers responded to two calls of trespassing and vandalism at residences one half mile apart in the City of Van Nuys, within the West Valley Division of LAPD. Officers Amy Vest and Zoraya Guillermo responded to the first call at an apartment building at [REDACTED] Woodley Avenue in response to a complaint about an unknown Hispanic man, later identified as Luis Ramirez, in a black shirt and blue shorts who was behaving erratically and throwing rocks at the exterior of the apartment building.¹ Vest and Guillermo interviewed the complaining party and searched the immediate area unsuccessfully for the suspect for approximately one half hour.

¹ All officers mentioned in this memorandum were in full LAPD uniform and were driving marked LAPD patrol vehicles.

While Vest and Guillermo were searching the area, Ramirez made his way one half mile west to [REDACTED] Hayvenhurst Avenue. He banged on and attempted to open the front door of the single family home. Inside the home were 15 year old A [REDACTED] and his father, J [REDACTED] A [REDACTED]. A [REDACTED], who had not gone to sleep, was startled at approximately 3:00 a.m. by Ramirez' activities, looked outside and saw Ramirez, a stranger to him. A [REDACTED] watched as Ramirez threw rocks at the front of his house, and began to vandalize cars parked in the street. A [REDACTED] awoke his father, and they watched Ramirez for a few minutes before A [REDACTED] called 9-1-1.

Vest and Guillermo heard the radio broadcast generated by A [REDACTED]'s call. Vest and Guillermo responded to the [REDACTED] block of Hayvenhurst Avenue, where they met Officers Joshua Towe and Robert Howe. Vest and Guillermo drove north and pulled over when they saw Ramirez, armed with two sticks and a handful of rocks in the front yard of [REDACTED] Hayvenhurst. Towe and Howe pulled in behind them. Ramirez threw rocks at the officers, which struck parked cars and landed in the street.

Ramirez had armed himself with a broom (49 inches in length) and the handle of a dustbin (41 inches in length) that had a metal spike on the end.² In addition, throughout the incident, Ramirez continually armed himself with handfuls of rocks from the front yard of the residence. Ramirez frantically paced around the front yard, disappearing briefly into a side yard. Ramirez held the sticks above his head and at shoulder level and appeared ready to strike officers over the fence at various moments.³

Vest, Guillermo, Towe and Howe ordered Ramirez to drop the sticks and show his hands in English and Spanish. He did not comply. Officers DeLeon, Costales and Nunez arrived and also ordered Ramirez to drop the sticks. The officers attempted to formulate a plan to take Ramirez into custody using less than lethal weapons. Guillermo fired a Taser at Ramirez to no effect. Howe shot Ramirez with a beanbag loaded shotgun. In apparent response to being tased by Guillermo, Ramirez lunged at her with the sticks and tried to strike her head with it from a distance of eight feet.

² The witnesses refer to the sticks in both the singular and plural form without differentiation throughout the statements. It does not appear that Ramirez ever put either of the sticks down during the events, therefore, officers' references to a singular stick may be interpreted as references to both sticks being used together.

³ At the time of the incident, the officers were gathered on the sidewalk near the gate of the fence of the property. [REDACTED] Hayvenhurst Avenue is a single family house on the west side of Hayvenhurst Avenue, a north south street. The sidewalk that runs parallel to the front yard of the residence is approximately three to four feet in width. Parallel to the sidewalk, adjacent to the curb is a four to five foot bed of dirt and grass. There is a single tree in the bed of dirt a few feet south of the gate of the residence. The trunk of the tree is as wide as the bed of dirt, which causes an obstruction. At the time of the incident, cars were parked in a continuous row along the curb in front of the residence, with approximately one to two feet between them. An SUV was parked at the curb directly across from the gate of the residence. The front yard of the residence, a rectangle approximately 49 feet from north to south and 22 feet from east to west, is separated from the sidewalk by a fence the base of which is cinder block up to a height of two to three feet, topped by wrought iron bars that rise to a total height of four to five feet. Between the bars are square cement columns that rise to approximately four feet and are approximately one foot wide. There is a swinging gate in the middle of the fence, bordered by two of the cement columns. The front yard is divided down the middle by a walkway that is bordered by white, sharp edged rocks that are approximately one to two inches in diameter. At the time of the incident, cars were parked in a continuous row along the curb in front of the Hayvenhurst residence, with approximately one to two feet between them.

Almost concurrently with Howe firing the beanbag loaded shotgun, Towe fired his service weapon three times, striking Ramirez once fatally in the back. Ramirez fell to his knees, got back up, staggered toward the Alvarado house and fell to the ground, where he expired.

Statements of Civilian Witnesses

Statement of I ■■■ V ■■■

On July 25, 2014, I ■■■ V ■■■ was inside his apartment at ■■■ Woodley Avenue. At approximately 1:00 a.m., V ■■■ heard someone trying to open the door of his apartment. V ■■■ had left both his front door and his screen door open, but had his security door closed. V ■■■ looked through the security door and saw Ramirez, whom he had never seen before. Ramirez left after about five minutes.

Ramirez returned to V ■■■'s apartment between 2:00 a.m. and 2:30 a.m. Ramirez was acting "crazy" and appeared to be under the influence of drugs. Ramirez again tried to open V ■■■'s door and tried to remove a screen from V ■■■'s window causing V ■■■ to believe he was trying to break in. Ramirez broke a planter, took pieces of it to the second story of the apartment building and threw them down into the courtyard. Ramirez also threw rocks at V ■■■'s door.

While Ramirez was breaking the planter and throwing the rocks, V ■■■ heard him say, "I want to kill somebody," "Call the police," and "I'm strong," in Spanish. These statements were not directed at any particular person and V ■■■ did not interpret them as direct threats to himself. V ■■■ called 9-1-1 at 2:52 a.m. and a patrol unit arrived immediately. V ■■■ did not tell the police who came to his apartment (Officers Vest and Guillermo) about the statements by Ramirez. The officers went to look for Ramirez.

Statement of A ■■■

A ■■■ was in his bedroom at ■■■ Hayvenhurst. He heard someone knocking and banging on his door. A ■■■ went to the door, looked outside and saw Ramirez talking to himself. A ■■■ had never seen Ramirez before. Ramirez was yelling at the house as if the residents had done something to him. It appeared Ramirez had already been into A ■■■'s backyard because he had armed himself with a broom and the handle of a dustbin that were normally kept there.⁴ Ramirez began to grab rocks from the front walkway and throw them at the front of A ■■■'s house and at cars parked on the street nearby. After striking one of A ■■■'s front windows, Ramirez ran to the street and struck the right passenger side of a vehicle parked in front of the A ■■■'s house repeatedly with the broom stick.

Ramirez ran back to A ■■■'s house and started banging on the door. A ■■■ awoke his father, J ■■■ A ■■■, who briefly watched Ramirez' actions. Ramirez traversed the yard at least six times repeatedly approaching the front door and ringing the doorbell. At one point, Ramirez locked the front gate as though he lived there. It appeared that Ramirez was under the influence of an unknown substance. A ■■■ called the police, who arrived within a minute or two.

⁴ A ■■■ called 9-1-1 at 3:27 a.m. and reported that an unknown man was outside throwing rocks at his house. He did not describe Ramirez beyond his dark jacket. A ■■■ did not mention the sticks to the 9-1-1 operator.

When the police arrived, Ramirez was walking from side to side in the front yard. The police told him to calm down, but he would not cooperate. Ramirez walked toward the north side of the yard and toward a side yard that leads to the backyard. The police were in a line in front of the house, on both the street behind cars and on the sidewalk behind the fence. A [REDACTED] believed that an officer was struck with a rock at some point during the incident. Ramirez also walked on the lawn with the sticks over his shoulder as though he were ready to hit someone.

The officers ordered Ramirez to, “Drop the stick! Drop the stick!” As they told Ramirez to drop the stick(s), he began to grab rocks from the ground in front of the house and throw them at the officers. The rocks were big enough to injure someone. After the arrival of the police, A [REDACTED] saw Ramirez throw rocks approximately three times. The fourth time, Ramirez appeared prepared to throw rocks, but decided not to do it. Ramirez dropped the rocks when he was in the middle of the walkway. A female officer, (Guillermo) who was right in front of Ramirez, gave a warning including the words, “Taser, Taser, Taser.” Following that, A [REDACTED] heard an electrical sound for five to seven seconds. A [REDACTED] saw that a Taser dart had struck Ramirez in the stomach and he fell to his knees, then fell on the ground to his left. Ramirez knocked the dart out with the broomstick.

Ramirez tried to get back up. A [REDACTED] heard what he thought was the sound of some type of shots. A [REDACTED] heard a male officer announce, “Beanbag, beanbag.” By this time, there were approximately 10 officers present. A [REDACTED] did not see who fired the beanbag shotgun. As Ramirez tried to get back to his feet, he was shot a second time and fell face first to his left side. A [REDACTED] believed he heard the bean bag two times, but he did not know who fired it. Ramirez never let go of the sticks. A [REDACTED] was not aware of any officer ever deploying any other type of weapon.

Statement of J [REDACTED] A [REDACTED]

J [REDACTED] A [REDACTED] was sleeping in his home when his son, A [REDACTED], awoke him and told him that someone was making noise outside and had been ringing the doorbell. A [REDACTED] appeared nervous and shaky and wanted to call the police. A [REDACTED] asked his son to wait, went to the door himself and looked outside, where he saw Ramirez making noise and talking to himself. A [REDACTED] had never seen Ramirez before. The only words A [REDACTED] could discern were, “Close your windows.”

A [REDACTED] saw Ramirez go to the back of the house, where he appeared to be looking for something. A [REDACTED] lost sight of Ramirez once he entered the backyard, but he saw him return to the front yard with the handles of a broom and a dustbin that are customarily stored in his backyard.⁵ A [REDACTED] was moving throughout the house, listening to A [REDACTED] describe Ramirez’ actions, including throwing rocks at cars and striking them.

A [REDACTED] called the police, and A [REDACTED] went to change in anticipation of meeting with them. A [REDACTED] looked outside and saw the red lights of police cars, as well as three or four officers outside his house. He saw Ramirez throwing rocks into the street. A [REDACTED] heard the police

⁵ A [REDACTED]’s recounting makes it appear that Ramirez armed himself with the sticks after A [REDACTED] had been watching for some time, which would be several minutes after A [REDACTED] first saw him. This conflicts with A [REDACTED]’s recollection that Ramirez had the stick from the first moment he saw him. A [REDACTED] is the more logical, complete and forthcoming witness of the two.

telling him to, "Lay down," or, "Stay put," as well as, "Put it down, put it down, put it down." Ramirez had the sticks in his hands and was definitely not compliant. He continued to throw rocks at the police.

A [REDACTED] stopped watching Ramirez so that he could change in anticipation of meeting with the police. While he was changing, he heard three or four booms, which did not sound like gunshots.

Statement of E [REDACTED] M [REDACTED]

E [REDACTED] M [REDACTED], an adult son of J [REDACTED] A [REDACTED], was living with his wife M [REDACTED] J [REDACTED] at [REDACTED] Hayvenhurst Avenue. Their house was on the same side of Hayvenhurst Avenue, two houses north of the A [REDACTED] house. Just before the incident, M [REDACTED] and J [REDACTED] were on a sofa in front of their house. They heard the sound of moaning coming from south of their property. At about the same time, they heard what sounded like someone jumping a fence at the northern end of their property; they did not see anyone jump the fence nor did they hear any additional sounds indicating where the person went next.

When the police arrived, M [REDACTED] went to his front doorway and looked out. He saw at least eight officers on the sidewalk in front of his father's house. There were also patrol vehicles with flashing lights and additional illumination from a helicopter overhead. M [REDACTED] looked south and saw Ramirez at a distance of about 60 feet, in his father's front yard, swinging the broomstick. Ramirez looked excited and he was yelling. Ramirez was not behaving normally. He was running back and forth in the yard and never tried to exit the yard.

A female officer was yelling at Ramirez to, "Put that down, put that down, put that down." The officers had their guns pointing at Ramirez, who was yelling and talking unintelligibly. M [REDACTED] heard four gunshots, all close together, that sounded like they came from two distinct firearms. M [REDACTED] did not see who shot. M [REDACTED] saw Ramirez swing the stick for approximately 50 seconds before he heard the gunshots.

Statement of C [REDACTED] T [REDACTED]

C [REDACTED] T [REDACTED] was inside her apartment at [REDACTED] Hayvenhurst Avenue, across the street from the A [REDACTED] house. T [REDACTED] was awoken at about 3:30 a.m. by the sound of voices outside, which sounded as though they were engaged in conversation. T [REDACTED] went back to sleep. T [REDACTED] was awoken a second time by louder voices that seemed to be arguing outside. T [REDACTED] heard a male voice say approximately two times, "Drop the rocks, drop the rocks!" Following that, T [REDACTED] heard three shots. She did not exit her residence or see the incident.

Statement of M [REDACTED] T [REDACTED]

M [REDACTED] T [REDACTED] was inside her home on the same block as the A [REDACTED] house. T [REDACTED] heard the incident, but did not see it. Once the police arrived, she heard a male voice order someone three times in English to drop what he had in his hands or the speaker would shoot. After that, there was the sound of four or five shots.

Statements of Police Officers

Compelled Statement of Officer Joshua Towe

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

██
██
██

Statement of Officer Amy Vest

Approximately 30 minutes before the incident, Officer Amy Vest and her partner Zoraya Guillermo responded to the trespassing call on Woodley Avenue. The comments of the call indicated that the trespasser was still at the location and that he was an Hispanic man wearing a black shirt over blue shorts. The trespasser was knocking on doors and windows at the complex and throwing objects into the courtyard.

Vest and Guillermo met with the caller, who said that the trespasser had gone westbound on Vanowen. The officers noted a broken planter in the courtyard. Vest and Guillermo searched the area for 20 to 30 minutes, but could not find the trespasser.

Vest and Guillermo heard the radio broadcast generated by A█████'s call, describing a male Hispanic suspect who was wearing "black over blue," and throwing rocks at a residence one half mile to the west on Hayvenhurst Avenue. Vest and Guillermo believed that the suspect on Hayvenhurst Avenue was likely to be the suspect for whom they had been searching, and responded to the Hayvenhurst Avenue residence.

As Vest and Guillermo drove onto the ██████ block of Hayvenhurst Avenue, they encountered Towe and Howe. The officers attempted to pull alongside one another when they heard the clanking sounds of a hard object striking metal and of a human voice. Vest and Guillermo drove north to ██████ Hayvenhurst Avenue, where they saw Ramirez with two sticks in his hand. Vest described one stick as having a prong type end similar to a rake and the other as a pole.

When the officers approached, Ramirez was shouting unintelligibly. Guillermo illuminated him with the spotlight on the patrol vehicle. Vest exited the patrol vehicle and walked toward Ramirez. Because Ramirez had two weapons, Vest believed that the encounter might escalate and necessitate the use of deadly force. Vest withdrew her service weapon with her trigger finger on the frame. Guillermo exited the patrol vehicle with her Taser in hand. The partners established that Vest would "be lethal" (she would be armed and prepared to use lethal force if necessary) and Guillermo would be less lethal (she would be armed and prepared to use a weapon not anticipated to cause potentially fatal injuries.)

Ramirez put both sticks in one hand and bent to the ground to pick up some of the sharp edged landscaping rocks that lined the pathway from the front door of the residence to the sidewalk, reminding Vest that the radio call had described the suspect throwing rocks at the house. As the officers approached, Ramirez raised one hand with rocks in it, while simultaneously raising the pole and stick in his other hand. Throughout the encounter, Ramirez had the sticks raised above his head most of the time in what appeared to be an effort to show them to the officers.

Vest warned Guillermo that Ramirez was going to throw rocks at them and both officers moved out of the pathway of the rocks. Ramirez hurled rocks some of which struck the hood of their

patrol vehicle while others landed in the street. Vest commanded Ramirez in English to stop throwing rocks and to put the sticks down, while Guillermo gave him commands in Spanish. Ramirez was staggering around the front yard of the residence and continued yelling unintelligibly. However, Ramirez managed to articulate, "Fuck off" while still holding the stick(s) in his hand. It appeared to Vest that Ramirez was under the influence of a controlled substance.

When Ramirez threw the first handful of rocks, Vest broadcast a "415 man" (a reference to a man causing a public disturbance; this broadcast was made at 3:33 a.m.). The officers decided to maintain distance between themselves and Ramirez until the arrival of additional units and remained in the street until they heard additional units park behind them.

After Towe and Howe arrived, Vest and Guillermo moved slightly closer to Ramirez, but continued to wait for additional backup. Ramirez armed himself with additional rocks and staggered through the gate, onto the sidewalk. Ramirez lost his balance and stumbled while attempting to throw the rocks, causing him to throw the rocks downward between cars directly in front of the residence. Officers DeLeon and Costales arrived. DeLeon positioned himself to the right of Vest and Costales positioned himself between Vest and Guillermo. Vest informed them that Ramirez had been picking up rocks and throwing them at her and Guillermo.

Ramirez re-entered the yard. The officers approached and Guillermo yelled to Ramirez that she would tase him if he did not put down the sticks and stop throwing rocks at the officers. Guillermo deployed the Taser after Ramirez had closed the gate behind himself. Vest ordered Ramirez to put the sticks down and stop throwing rocks, adding that the officers did not want to hurt him, but that he must put the objects down.

All of the officers ordered Ramirez to put the sticks down, including Guillermo who spoke in Spanish. Ramirez was moving around within the yard, and at any given time, he was five to ten feet from the officers and in a position to strike the officers over the fence if he lunged toward them. Vest specifically recalled Towe telling Ramirez to, "Put the sticks down, or I am going to shoot you." Vest did not recall the exact moment at which Towe's statement was made, but it was before Ramirez moved toward the backyard. Vest believed that approximately 20 to 30 seconds passed between the statement and the shooting. Ramirez ignored the officers' orders, bent down and picked up a few additional rocks. Vest pushed DeLeon out of the way of the rocks that were being thrown.

Vest believed that Ramirez posed an imminent threat of death or great bodily injury to her or one of her fellow officers, so she tried to position herself to get an unobstructed shot at Ramirez. Vest could not get a clear shot at Ramirez because he was behind the concrete barriers at the base of the fence.

Ramirez took the sticks and walked toward the northern side of the yard, disappearing on the pathway that leads to the backyard. The officers knew that there were people living in the house. While Ramirez was out of sight, Vest opened the gate of the front yard, and she and the other officers began to formulate alternate plans to safely take him into custody, including the use of a Taser or beanbag loaded shotgun. Guillermo stated that when Ramirez returned, she would tase him if she got a clear shot.

While the officers were formulating a plan, they were also ordering Ramirez to return to the front yard. Ramirez quickly returned to the front yard of the residence with the stick(s) raised above his head in both hands, making unintelligible sounds. Guillermo deployed her Taser in one five second burst, but Vest could not see whether any of the darts struck him. Being tased had no visible effect on Ramirez except that he appeared angry at Guillermo, taking a fighting stance, with one leg back. Ramirez focused intently on Guillermo, squinting his eyes at her, speaking louder than before and raising the pole in his left hand to face level, as though using it as a blocking defense.

When Guillermo deployed the Taser, she was almost due east of Ramirez a few feet to the east of the gate, while Ramirez was several feet inside the gate, on the walkway to the front door. Towe was several feet south of Guillermo on the sidewalk, with Howe several feet farther south. Officers Costales, Vest and DeLeon were positioned north of Guillermo on the sidewalk.⁸

Ramirez had the pronged stick in his right hand cocked back behind his head with the sharp portion at the top and he began to close the distance between himself and Guillermo. He had the stick raised as if to strike Guillermo in the head. Vest could not get a clear shot at Ramirez. She heard the boom from a beanbag shotgun. Ramirez winced, but the impact did not knock him down. Then, Vest heard a much louder boom, which she believed to be the second deployment of the beanbag shotgun. Ramirez remained in a combative stance and continued to look angry. He slightly lowered the stick in his left hand, and his stance weakened slightly, but not enough to indicate compliance.

After the second boom, Ramirez dropped to his knees, then stood and turned as though he was about to go to the house. When Ramirez arose, Vest saw the blood on his clothing for the first time and realized that he had been shot with a firearm, not just a beanbag shotgun. Ramirez collapsed and fell on the ground, face down.

Vest looked to her left, toward the south which was the direction from which the boom sound had emanated, and saw that Towe had discharged his firearm because she saw smoke coming from it. Vest never fired her firearm because she never got an unobstructed shot. Vest noticed cuts and a burning sensation on her lower left arm, but did not know when she had gotten the injury.⁹

Statement of Officer Zoraya Guillermo

Officer Zoraya Guillermo described the events on Woodley Avenue in the same way as her partner, Officer Vest. When she and Vest encountered Towe and Howe near the A [REDACTED] house, she told them about the Woodley prowler having tried to open doors of residential units. Guillermo and Vest drove toward the sound of a man's voice and rustling in the bushes. She used the spotlight on her police vehicle to illuminate Ramirez in the front yard of the A [REDACTED] residence. Ramirez looked very fidgety and had a broom handle and a stick in his hand. Ramirez was mumbling then yelling in Spanish to turn off the spotlight.

⁸ The positions of the parties at the time of the deployment of the Taser, the beanbag loaded shotgun, and Towe's firearm are all memorialized in photographs and diagrams. The only officer who moved was Guillermo, who stepped back a few feet after deploying her Taser.

⁹ After the incident, Vest noticed a few small circular abrasions to the front of her left forearm.

Guillermo yelled at him in Spanish repeatedly to drop the sticks and to show his hands. Ramirez bent down and got rocks from the ground which he threw at Guillermo. She was not struck, and he began to throw rocks at her partner as well. Guillermo heard the sound of rocks hitting nearby cars and the street. As Ramirez bent down to pick up rocks, Guillermo unholstered her service weapon and held it in the low ready position pointing in his direction. With both sticks in one hand, Ramirez lunged at her from a distance. Guillermo went to her car and retrieved her Taser, establishing with her partner that she would be “non-lethal” while her partner would be “lethal.”

Towe and Howe arrived, immediately unholstering their firearms. Ramirez got more rocks and began to throw rocks at them as well. Howe retrieved the beanbag loaded shotgun at approximately the same time that DeLeon and Costales arrived. Ramirez continued to throw rocks at the officers. Ramirez also moved around the yard and raised the sticks above his head in Guillermo’s direction. At unspecified times, he lunged at the officers as he traversed the yard. Ramirez shut the gate and ran southbound at about the time that Officer Nunez arrived.

Guillermo pushed the gate open as part of a plan to subdue Ramirez and take him into custody. Ramirez turned back to her with the sticks over his head and lunged at her with the sticks. Guillermo told her fellow officers that she would tase Ramirez if she got a good shot at him, and that would enable them to take him into custody. He had been lifting the sticks over his head and lunging at the officers with them.

When Ramirez moved to the gate and put his left hand on the gate he was about ten feet from her. She got a good shot at him and deployed the Taser. She believed that he was struck with the Taser darts.

In response, Ramirez turned all of his attention to Guillermo, still holding the sticks in his hand, and lunged at her. He was pointing the sticks at her and he looked very angry and tense and locked his eyes on her. He raised the sticks a little higher than they had been, lunged at her and made a motion like he was coming after her with them. By this time, Ramirez was within eight feet of her. Guillermo took a step backwards. Because Guillermo believed that he was going to cause her great bodily injury with the sticks, Guillermo dropped her Taser and unholstered her service weapon. Guillermo pointed her firearm at him and heard the beanbag shotgun deploy. Within a second, she heard three more shots. Guillermo did not use lethal force because other officers succeeded in stopping him first.

Guillermo saw Ramirez wince inward but he did not go to the ground immediately. She smelled gunpowder, looked back and saw smoke coming from Towe’s firearm.

Statement of Officer Robert Howe

When Officers Howe and Towe responded to the radio call on Hayvenhurst Avenue, they learned from Vest and Guillermo that the Hayvenhurst suspect was likely to be the same man who had been throwing rocks in the Woodley Avenue incident. When Howe and Towe parked behind Vest and Guillermo, Vest and Guillermo were on foot, backing away from the front yard of ■■■ Hayvnehurst. It appeared that objects were being thrown at Vest and Guillermo, who requested backup. When Howe first saw Ramirez, he had a five foot long stick with a sharp

metal object attached to the end of it in his left hand, and rocks in the right hand, which he was throwing at the officers.

Howe and Towe exited their vehicle and Howe saw Ramirez in the front yard with a rake with sharp spikes on the end and a broom, and approached cautiously. Howe was not able to walk up to Ramirez and take the pole and broom stick from Ramirez because he was afraid Ramirez would swing at him or another officer, causing injury. Ramirez had rocks in his hands which he was throwing at the officers including throwing rocks at Howe from a distance of 20 to 30 feet while Howe was in the roadway. Towe heard the rocks striking adjacent vehicles and the roadway. The officers dodged the rocks, managing not to be struck. The rocks, which Howe estimated to have been one half to one inch in diameter and from two to five ounces, appeared capable of causing serious bodily injury.

Ramirez was mumbling and Howe could only discern the three words, “fuck you” and “no.” Vest and Guillermo were ordering Ramirez in English to drop the rake and stones but Ramirez did not comply. Ramirez continued to mumble in what may have been Spanish. Ramirez was pacing in the yard, and was extremely agitated, sweating profusely.

Ramirez was raising the stick over his head with his left hand overhead and gesturing toward the officers. Once Ramirez had thrown all the rocks, and his right hand was empty, he was pacing in the front yard, appearing agitated and tense and sweating profusely. Ramirez did not seem aware of anyone else in his vicinity.

Howe withdrew his firearm as he approached and maintained it in a low ready position, aimed at the ground, with his finger on the side because he believed the situation would escalate to the use of deadly force because Ramirez was throwing rocks and had a sharp object in his left hand. Officers Nunez, Costales and DeLeon arrived at about this time.

Howe went to retrieve the beanbag loaded shotgun in his trunk and chambered a round. Ramirez then approached the officers on the pathway in front of the house, positioning himself approximately ten feet from them. Ramirez stood there with the stick in one hand in front of him and his right hand was full of rocks down by his side.

Ramirez continued to disregard commands in both English and Spanish. Guillermo gave a warning to Ramirez that he did not comply, she would shoot him with the Taser and it would cause him serious bodily injury. In apparent response, Ramirez raised his right hand in what could have been an attempt to throw rocks at officers. Guillermo discharged the Taser, and Ramirez jumped back, with his back arched. One barb hit his shirt, the other bounced off of his shirt and hit the ground. It was not full contact and had no effect on him.

Ramirez became angry and raised his left hand with the stick(s) and he lunged at Officers Guillermo and Vest. At the same time, he swung the stick(s). Because Ramirez had not been affected by the Taser, Howe undid the safety on the beanbag loaded shotgun and waited to see whether Ramirez would comply with additional commands. When Ramirez ignored the commands, Howe discharged one round from a distance of eight to ten feet approximately one or two seconds between the deployment of the Taser. Ramirez flinched but kept charging at the officers with his hands and the poles raised. Ramirez was eight feet from Guillermo and closing the distance. Howe re-racked the shotgun and fired another round at Ramirez. Ramirez fell to

his knees, then dropped into a fetal position. Howe was approximately eight feet from Ramirez. Vest, Guillermo and Towe were closer to Ramirez, all to his right.

Howe did not know that Ramirez had been shot with a firearm until he was later interviewed.

Statement of Officer Luis DeLeon

When DeLeon and Costales arrived, Ramirez was gathering rocks on the ground. Vest and Guillermo were on the other side of the fence. DeLeon unholstered his firearm, anticipating that deadly force might be needed if Ramirez began to throw rocks. At the same time, DeLeon inventoried the non-lethal options available to take Ramirez into custody, confirming that Guillermo had a Taser and that Howe had a beanbag loaded shotgun. Ramirez appeared to be under the influence and was not making sense. DeLeon noted the sticks, which he could not see well. Ramirez continued to pace around the yard and at times it appeared that he was again going to go to the house. DeLeon did not know whether the house contained additional suspects or uninvolved people who were potentially at risk. In Spanish, DeLeon ordered Ramirez to put his hands up.

Taser in hand, Guillermo faced Ramirez across the closed gate. Ramirez lunged at her, and she tased him from a distance of seven to ten feet. DeLeon could not see where the darts landed. Ramirez swung hard while lunging at Guillermo, almost striking her in the head with the stick.

DeLeon heard two rounds from the beanbag loaded shotgun, almost concurrently with, but followed immediately by three to four rounds from a pistol. DeLeon believed that Towe was eight feet from Ramirez at the time he fired his weapon.

DeLeon did not fire his weapon because he never had a clear shot. DeLeon believed Vest may have been struck by a ricochet.

Ramirez walked back toward the house and fell to the ground.

The Scene of the Incident

Three expended 9 mm cartridge casings were collected which were tested and found to have been fired from Officer Towe's duty weapon. Two beanbag shot shells were collected from the general area in which Howe stood while discharging the shotgun. The street and sidewalk east of the A [REDACTED] house were strewn with rocks identical to those in the A [REDACTED] front yard.

Coroner's Findings

On July 27, 2014, Los Angeles County Medical Examiner Dr. Jeffrey Gutstadt performed an autopsy on Ramirez and concluded that Ramirez died as a result of a single gunshot wound that entered his right upper back and exited his chest.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears that the person claiming the right of self-defense or defense of others actually and reasonably believed that he was in danger of great bodily injury or death. 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. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use all 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 imminent injury. CALCRIM No. 3470.

It is inherent in the work of a police officer that quick and potentially lethal action may need to be taken with little time for deliberation. “Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” People v. Collins (1961) 189 Cal.App.2d 575.

Ramirez trapped the residents of [REDACTED] Hayvenhurst inside their residence while alternately trying to force his way inside and vandalizing the outside. This created a tense, volatile situation in which responding officers had to consider the safety of those inside the home, of neighbors, of Ramirez and of themselves. From the moment the officers first saw Ramirez, he presented the immediate threat of serious bodily injury to them and potential danger to officers and civilians in the surrounding area.

When Vest and Guillermo approached, Ramirez began hurling sharp edged rocks at them. Ramirez had also armed himself with two sticks, which he brandished at officers throughout the incident. Any officer entering the front yard of the residence would find himself trapped with Ramirez.

The responding officers repeatedly tried non-lethal options without success. Ramirez disregarded verbal commands and warnings in English and Spanish. Ramirez refused to drop the sticks. Ramirez was not subdued by either the Taser or the beanbag loaded shotgun. Throughout the incident, Ramirez could have struck any of the officers in the head with the sticks. When tased by Guillermo, Ramirez was not subdued, but incited. Ramirez focused his aggression on Guillermo and lunged at her with the sticks, poised to strike while closing a gap of approximately eight feet. Guillermo was partially confined by the fence of the residence, the tree, the row of cars parked behind her and her fellow officers.

Howe fired the beanbag loaded shotgun twice, with no effect. Finally, just before Ramirez might have struck Guillermo with the sticks, Towe fired his weapon, stopping him. At the moment he was fatally shot, Ramirez presented an apparent, present, and immediate lethal threat that needed to be dealt with instantly.

CONCLUSION

The events that were unfolding were the very “tense, uncertain and rapidly evolving” circumstances that the United States Supreme Court had in mind while authoring its decision in

Graham v. Connor. Considering the rapidly evolving, potentially dangerous situation that confronted Officer Towe, we conclude that Officer Towe was justified in using deadly force against Luis Ramirez in defense of Officer Guillermo. We are closing our file and will take no further action in this matter.